

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

CAMBRI DGE LI CENSE COMMI SSI ON

Li cense Commi ssi on General Heari ng  
Deci si on Heari ng

i n the

Mi chael J. Lombardi Bui l di ng  
Basement Conference Room  
831 Massachusetts Avenue  
Cambri dge, Massachusetts

10: 14 a. m.

Mi chael P. Gardner, Chai r  
Chi ef Geral d R. Reardon, Fi re Department,  
Commi ssi oner Robert C. Haas,  
Pol i ce Department

El i zabeth Y. Li nt, Executi ve Di rector

---

REPORTERS, I NC.  
CAPTURING THE OFFI CI AL RECORD  
617. 786. 7783/FACSI MI LE 617. 639. 0396  
www. reportersi nc. com

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

## I N D E X

Page

Pol i cy: The Board of License  
Commi ssi oners will hold a pol i cy hearing  
to create a new class of wine & malt  
beverages as a restaurant license with  
2:00 a.m. closing time. The license fee  
will be \$2,475 for transferrable licenses  
and \$4,944 for ci ty issued non-transferrabl e  
licenses

Di sci pl i nary: Vi j eta Corporati on d/b/a  
Prospect Li quors, Dhi ru Patel , Manager

## P R O C E E D I N G S

1  
2           D i s c i p l i n a r y:   V i j e t a   C o r p o r a t i o n

3                   E L I Z A B E T H   L I N T:   T h i s   i s   t h e   L i c e n s e  
4   C o m m i s s i o n   g e n e r a l   h e a r i n g,   T u e s d a y,   O c t o b e r  
5   9,   2 0 1 2,   a t   1 0: 1 4   a. m.   W e   a r e   i n   t h e   M i c h a e l  
6   J.   L o m b a r d i   B u i l d i n g,   8 3 1   M a s s.   A v e. ,  
7   b a s e m e n t   c o n f e r e n c e   r o o m.

8                   B e f o r e   y o u,   t h e   C o m m i s s i o n e r s,   C h a i r m a n  
9   M i c h a e l   G a r d n e r   a n d   C h i e f   G e r a l d   R e a r d o n.

10                  T h e   d i s c i p l i n a r y   m a t t e r,   V i j e t a   C o r p o r a t i o n  
11   d o i n g   b u s i n e s s   a s   P r o s p e c t   L i q u o r s,   D h i r u  
12   P a t e l ,   M a n a g e r,   h o l d e r   o f   a n   a l l   a l c o h o l i c  
13   b e v e r a g e s   a s   a   p a c k a g e   s t o r e   l i c e n s e   a t   1 2 2 6  
14   C a m b r i d g e   S t r e e t   d u e   t o   a n   a l l e g e d   v i o l a t i o n  
15   a t   M a s s.   G e n e r a l   L a w s   1 3 8,   S e c t i o n   1 5   a n d   t h e  
16   L i c e n s e   C o m m i s s i o n' s   d i s c i p l i n a r y   h e a r i n g  
17   d e c i s i o n   o n   t h e   J a n u a r y   1 0,   2 0 1 2,   s e t t i n g   t h e  
18   o p e n i n g   t i m e   o f   P r o s p e c t   L i q u o r s   a t   e l e v e n  
19   a. m.

20                  M I C H A E L   G A R D N E R:   A n d   j u s t   t o  
21   c l a r i f y   t h e   a g e n d a,   M s.   L i n t.

1 ELIZABETH LINT: Yes.

2 MICHAEL GARDNER: We did have a  
3 policy hearing on a new class of wine, malt,  
4 and beverage licenses for two a.m. closing.  
5 Is that now going to be heard later?

6 ELIZABETH LINT: Well, if  
7 Commissioner Haas appears, because I know you  
8 wanted all three commissioners present for  
9 that matter.

10 MICHAEL GARDNER: Right.

11 So because Commissioner Haas is not  
12 here, essentially we will do the disciplinary  
13 hearing first, and if the Commissioner is  
14 able to join us before we've completed that,  
15 then we can do the policy hearing as well.  
16 However, I don't think I'm comfortable doing  
17 the policy hearing without all three  
18 commissioners.

19 So anybody who's here for the policy  
20 hearing can decide whether or not they want  
21 to stay on the uncertain circumstance as to

1           whether we'll hear it.

2                     But the disciplinary hearing we're  
3           prepared to hear now?

4                     Okay. Are the parties here now?

5                     ATTORNEY GERALD VAN DAM: Present.

6                     MICHAEL GARDNER: Okay. Come  
7           forward and I'll just ask all of the people  
8           at the front table to state and spell their  
9           names for the record beginning with  
10          Ms. Boyer.

11                    ANDREA BOYER: Andrea Boyer,  
12          B-o-y-e-r, Chief Licensing Investigator for  
13          the City of Cambridge Licensing Commission.

14                    ATTORNEY GERALD VAN DAM: Gerald Van  
15          Dam. I represent Prospect Liquors.

16                    MICHAEL GARDNER: And would you  
17          spell your last name, please?

18                    ATTORNEY GERALD VAN DAM: Capital  
19          V-a-n Capital D-a-m. Gerald Van Dam. I have  
20          a card if the Board would like that.

21                    MICHAEL GARDNER: Please.

1                   And, si r.

2                   DHI RU PATEL:   Dhi ru Patel , owner of  
3                   Prospect Li quors.

4                   ELI ZABETH LINT:   I j ust have a mi nor  
5                   housekeepi ng i ssue.   There' s a bal ance on a  
6                   personal property tax bi ll for 2012, j ust a  
7                   small amount that the Treasurer' s offi ce has  
8                   sent over.

9                   DHI RU PATEL:   I' ll do that today.

10                  MI CHAEL GARDNER:   Before we begi n,  
11                  I' d l i ke to confi r m a procedural i ssue and so  
12                  I' ll ask Ms. Li nt or Ms. Boyer, Mr. Van Dam  
13                  to correct anythi ng that I may say, but my  
14                  understandi ng or memory, Ms. Li nt, is that we  
15                  hel d a di sci pl i nary heari ng concerni ng  
16                  Prospect Li quors, was i t i n January of 2012?

17                  ELI ZABETH LINT:   Correct.

18                  MI CHAEL GARDNER:   And that heari ng  
19                  had to do, as I recal l , wi th al legati ons as  
20                  to the sel li ng of spi ri ts to i ntoxi cated  
21                  persons?

1 ELIZABETH LINT: That's correct.

2 MICHAEL GARDNER: At that hearing  
3 there was, as I recall, a great deal of  
4 concern that early morning sales of very  
5 small bottles, sometimes referred to as nips,  
6 or other sales to persons who had the  
7 appearance of being either homeless or  
8 destitute or in difficult social  
9 circumstances was a regular and reoccurring  
10 part of the business of the store to the  
11 detriment of public safety; in particular  
12 school children traversing the area, and  
13 general neighborhood concerns. As a result  
14 of that hearing, as I recall, the License  
15 Commission imposed a 20-day suspension on the  
16 operation and also changed the opening hours  
17 to eleven a.m. and instructed that any  
18 so-called nips or very small quantity bottles  
19 be kept out of site.

20 ELIZABETH LINT: That's right.

21 MICHAEL GARDNER: An appeal was

1 taken of that decision as I recall, and even  
2 though there is no appeal to ABCC on the  
3 opening time, the License Commission did not  
4 insist on enforcement of that piece of the  
5 decision at the time the appeal was pending.

6 Do I have that correct?

7 ELIZABETH LINT: That's correct.

8 MICHAEL GARDNER: And the appeal on  
9 the suspension was taken in the matter of  
10 course, a decision was reached between the  
11 Commission, as with you as its agent or the  
12 City with you as its agent and the owner to  
13 compromise the number of days of suspension  
14 down to, as I recall, 14. Is that correct?

15 ELIZABETH LINT: That's correct.

16 MICHAEL GARDNER: And to begin  
17 enforcement of the eleven o'clock starting  
18 time?

19 ELIZABETH LINT: Correct.

20 MICHAEL GARDNER: And in your  
21 negotiations were you negotiating directly

1 with Mr. Patel or with counsel or an agent to  
2 him?

3 ELIZABETH LINT: Actually with both.

4 MICHAEL GARDNER: And was it Mr. Van  
5 Dam who was --

6 ELIZABETH LINT: No, it was attorney  
7 Kennedy.

8 MICHAEL GARDNER: And I just ask  
9 then in your mind was it clear that the  
10 eleven o'clock start time was part and parcel  
11 of the understanding?

12 ELIZABETH LINT: Yes.

13 The eleven o'clock opening, if that was  
14 a problem or a concern, would have had to  
15 have been appealed to Superior Court. That  
16 appeal was never filed.

17 MICHAEL GARDNER: Essentially 30  
18 days after a decision?

19 ELIZABETH LINT: 60 days.

20 MICHAEL GARDNER: 60 days. So  
21 sometime in March.

1 And that compromise was reached when?

2 ELIZABETH LINT: September 18th.

3 MICHAEL GARDNER: 2012?

4 ELIZABETH LINT: Correct.

5 MICHAEL GARDNER: And a notice to

6 Mr. Patel outlining the terms of that

7 agreement was sent on September 18, 2012?

8 ELIZABETH LINT: It was.

9 MICHAEL GARDNER: We'll just take

10 official note of the September 18th document

11 as part of the record in the hearing.

12 And do you have a copy of that, Mr. Van

13 Dam?

14 ATTORNEY GERALD VAN DAM: Yes, I do.

15 MICHAEL GARDNER: Before Ms. Boyer

16 begins I'll ask Mr. Patel through you,

17 Mr. Van Dam, are there any parts of the

18 summary that you dispute?

19 ATTORNEY GERALD VAN DAM: Am I

20 correct we're addressing the sole issue of

21 the eleven o'clock opening at this hearing

1 right now?

2 MICHAEL GARDNER: I gave you an  
3 outline of the history of the case as to my  
4 understanding. I'm asking if there's  
5 anything about that summary that you dispute?

6 ATTORNEY GERALD VAN DAM: Not at  
7 all.

8 MICHAEL GARDNER: Thank you.  
9 Ms. Boyer.

10 ANDREA BOYER: Thank you, sir.

11 Please be advised that I spoke with the  
12 owner of Prospect Liquors, Mr. Patel,  
13 regarding a disciplinary letter that was sent  
14 to him on September 18, 2012. I sent you a  
15 copy of that letter with your packet.

16 The reason for discussing the letter  
17 was to be sure that he understood that the  
18 days he was not to be open and that he may  
19 not open until eleven a.m. Mr. Patel stated  
20 that he needs to open for nine a.m. for  
21 financial reasons. I informed him that time

1 of opening was negotiated with the Executive  
2 Director, and the License Commission Board  
3 would have to change the hours that are  
4 issued on the disciplinary letter.

5 I explained further that he must write  
6 a letter to be put on the agenda to speak to  
7 the License Commission Board and state his  
8 financial issues.

9 I also told him the next available date  
10 would be October 9, 2012. I reiterated that  
11 until he had been heard by the Board he may  
12 not open until eleven a.m., and the store  
13 would be checked to make sure he was in  
14 compliance.

15 The next day I did an inspection of  
16 Prospect Liquors, which was September 27,  
17 2012 and --

18 MICHAEL GARDNER: Okay, so just --

19 ANDREA BOYER: I apologize.

20 MICHAEL GARDNER: It's all right.

21 -- just to clarify the timeline here.

1 The conversati on you had with Mr. Patel that  
2 you just spoke of, I take it was by  
3 tel ephone?

4 ANDREA BOYER: Yes, it was.

5 MI CHAEL GARDNER: And what was the  
6 date of that conversati on?

7 ANDREA BOYER: September 26th.

8 MI CHAEL GARDNER: September the  
9 26th. So that would have been the Wednesday  
10 fol lowing the week before Tuesday, September  
11 18th noti ce?

12 ANDREA BOYER: Correct.

13 MI CHAEL GARDNER: All right, okay.  
14 I'm sorry, go ahead.

15 ANDREA BOYER: So i nspecti on of the  
16 store of Prospect Li quors on September 27,  
17 2012, at ten a.m. showed Prospect Li quors  
18 opened and Mr. Patel selling to the  
19 i ndi vi dual s. As I wal king towards the  
20 establ ishment, two men exi ted and placed  
21 thei r bags whi ch Prospect Li quors uses for

1           their sales into their grocery style carts  
2           that were holding empty bottles for return.  
3           When I opened the door to enter Prospect  
4           Liquors, Mr. Patel was at the register  
5           ringing an item for a customer, and there  
6           were three additional customers waiting in  
7           line.

8                       MICHAEL GARDNER: And at  
9           approximately what time was this?

10                      GERALD REARDON: What time was this?

11                      ANDREA BOYER: 10:05 a.m.

12                      MICHAEL GARDNER: Okay. Go ahead.

13                      ANDREA BOYER: That was the first  
14           day, and so I came back and wrote that up to  
15           give to the Executive Director.

16                      MICHAEL GARDNER: Did you have any  
17           conversation with him at that time?

18                      ANDREA BOYER: Not at that time.

19                      The next day I went and performed an  
20           inspection on September 28th at approximately  
21           9:55 a.m. The purpose of the inspection was

1 to monitor Prospect Liquors' opening hour of  
2 eleven a.m. based on previous disciplinary  
3 issue. I watched a person enter the package  
4 store and then I entered. I asked the owner,  
5 Mr. Patel, why he was opened and he asked if  
6 he could speak to me after the customer left.  
7 Once the customer left he started to explain  
8 his financial problems and he --

9 MICHAEL GARDNER: Let me just  
10 interrupt you. Did the customer make a  
11 purchase?

12 ANDREA BOYER: Cigarettes.

13 MICHAEL GARDNER: Okay.

14 ANDREA BOYER: Once the customers  
15 left, he started to explain his financial  
16 problems and that he must open. I started to  
17 explain to him that I have to follow the  
18 rules in the letter. When I heard voices in  
19 the back storage room, I walked to the back  
20 and two gentlemen were speaking, and there  
21 was a small bottle of wine next to one of the

1 men. I asked if it was his, and he stated,  
2 It's not mine. I said, Okay, and then went  
3 back to Mr. Patel and asked why they were in  
4 the back room. He said, he thinks one of  
5 them needs to use the bathroom.

6 I went back to the storage room and  
7 asked again, Are you drinking back here? And  
8 the man replied, No. I took the bottle which  
9 was perspiring from recently being cold. The  
10 bottle was new.

11 MICHAEL GARDNER: So it had  
12 condensation on it?

13 ANDREA BOYER: Correct.

14 And asked for the man with the bottle  
15 cap that was in his hand which matched the  
16 bottle, I took the bottle to Mr. Patel and  
17 said, They are in the back. And he stated,  
18 I'm not going to lie to you, yes, but it is  
19 because he is the father of a previous  
20 officer and I am afraid.

21 I went to the back area again where the

1 two men were and told them that they had to  
2 leave. It is illegal to drink on premise.

3 Mr. Patel continued to explain to me  
4 that he needs to be open due to financial  
5 issues. I told him that he cannot open until  
6 eleven a.m. until he speaks with the License  
7 Commission Board. Also I would be writing a  
8 report of the man drinking in the back room,  
9 and removed the wine bottle off premise as  
10 evidence which is upstairs. And that was the  
11 end of the investigation.

12 MICHAEL GARDNER: Okay.

13 ANDREA BOYER: When I wrote up the  
14 report, I gave to the Executive Director who  
15 put it on the agenda.

16 MICHAEL GARDNER: And that's your  
17 September 27, 2012, report to Ms. Lint?

18 ANDREA BOYER: Both of them were  
19 given to her.

20 MICHAEL GARDNER: I'm sorry, both --  
21 the other one was -- oh, the September 27th

1 and 28th?

2 ANDREA BOYER: Correct.

3 MI CHAEL GARDNER: Do you have those,  
4 Mr. Van Dam?

5 ATTORNEY GERALD VAN DAM: Yes, I do.

6 MI CHAEL GARDNER: Mr. Patel .

7 DHI RU PATEL: Yes.

8 MI CHAEL GARDNER: Through Mr. Van  
9 Dam.

10 ATTORNEY GERALD VAN DAM: Thank you.

11 State your name.

12 DHI RU PATEL: Dhi ru Patel . Dhi ru  
13 Patel .

14 ATTORNEY GERALD VAN DAM: Where do  
15 you live, Mr. Patel ?

16 DHI RU PATEL: Burl i ngton,  
17 Massachusetts.

18 ATTORNEY GERALD VAN DAM: Who do you  
19 live wi th?

20 DHI RU PATEL: Two ki ds and my wi fe.

21 ATTORNEY GERALD VAN DAM: And your

1 two children. One in college?

2 DHIRU PATEL: Yeah. One in college,  
3 and other one just finished the school, but I  
4 had to pay his mortgage.

5 ATTORNEY GERALD VAN DAM: Finished  
6 his what? Speak up.

7 DHIRU PATEL: He just finished his  
8 college in New York.

9 ATTORNEY GERALD VAN DAM: And --

10 MICHAEL GARDNER: So you have one  
11 child in college and one has just graduated?

12 DHIRU PATEL: Yes, just graduated.

13 ATTORNEY GERALD VAN DAM: And does  
14 your wife work?

15 DHIRU PATEL: No. My wife is --

16 ATTORNEY GERALD VAN DAM: Why not.  
17 Why doesn't your wife work?

18 DHIRU PATEL: She has the health  
19 problems so she cannot work.

20 ATTORNEY GERALD VAN DAM: And how  
21 long have you been at Prospect Liquors in the

1 present location?

2 DHI RU PATEL: Seven years.

3 MI CHAEL GARDNER: I didn't hear  
4 that.

5 DHI RU PATEL: Seven years.

6 MI CHAEL GARDNER: Seven?

7 DHI RU PATEL: Yeah.

8 ATTORNEY GERALD VAN DAM: Mr. Patel,  
9 this is not your first hearing before this  
10 Board, is it?

11 DHI RU PATEL: Right.

12 ATTORNEY GERALD VAN DAM: Do you  
13 understand the authority of the Board?

14 DHI RU PATEL: Yes.

15 ATTORNEY GERALD VAN DAM: Okay.

16 What is your understanding?

17 DHI RU PATEL: They have a right to  
18 whatever, to close the store or whatever.

19 ATTORNEY GERALD VAN DAM: They have  
20 a right to revoke your license; correct?

21 DHI RU PATEL: Yes.

1                   ATTORNEY GERALD VAN DAM: Do you  
2 understand that?

3                   DHI RU PATEL: Yeah.

4                   ATTORNEY GERALD VAN DAM: Have I  
5 impressed that upon you?

6                   DHI RU PATEL: Yeah.

7                   ATTORNEY GERALD VAN DAM: Have you  
8 -- they have the authority to put you out of  
9 business; correct?

10                  DHI RU PATEL: Yeah.

11                  ATTORNEY GERALD VAN DAM: And you  
12 have how much longer on your lease?

13                  DHI RU PATEL: Three more years.

14                  ATTORNEY GERALD VAN DAM: Is your  
15 rent up to date, Mr. Patel?

16                  DHI RU PATEL: Yes.

17                  ATTORNEY GERALD VAN DAM: Has it  
18 always been basically up to date?

19                  DHI RU PATEL: Yeah.

20                  ATTORNEY GERALD VAN DAM: And you  
21 understood, did you not, the terms and

1           condi ti ons I ai d out to you; correct?

2                   DHI RU PATEL:   Yes.

3                   ATTORNEY GERALD VAN DAM:   And by  
4           vi ol at ing that, as we spoke, do you  
5           understand agai n they can cause thi s store to  
6           be cl osed and you wi thout a j ob?

7                   DHI RU PATEL:   Yeah.

8                   ATTORNEY GERALD VAN DAM:   I woul d  
9           I like to be heard, but I have no further  
10          questi ons of Mr. Patel at thi s parti cul ar  
11          time.

12                  MI CHAEL GARDNER:   So I have a coupl e  
13          of questi ons for Mr. Patel .

14                  What time di d you open the store on  
15          September the 18th?

16                  DHI RU PATEL:   September the 18th i s  
17          regul ar time.   I s I like around -- j ust before  
18          ni ne o' cl ock.

19                  MI CHAEL GARDNER:   What time di d you  
20          open the store on September 19th?

21                  DHI RU PATEL:   September 19th, j ust

1 after that is regular, eleven o'clock. Only  
2 couple days.

3 ATTORNEY GERALD VAN DAM: He asked  
4 you on a particular day what time did you  
5 open?

6 DHIRU PATEL: Yeah. Eleven o'clock.

7 MICHAEL GARDNER: What time did you  
8 open the store on September the 19th?

9 DHIRU PATEL: 19th?

10 MICHAEL GARDNER: I'm sorry,  
11 September 20th.

12 DHIRU PATEL: September 20th?

13 MICHAEL GARDNER: Do you need a  
14 calendar?

15 DHIRU PATEL: No.

16 MICHAEL GARDNER: Okay. September  
17 the 20th was a Thursday. What time did you  
18 open the store?

19 DHIRU PATEL: Yeah. Eleven o'clock.

20 MICHAEL GARDNER: What time did you  
21 open the store at Friday, September 21st?

1 DHI RU PATEL: El even o' cl ock.

2 MI CHAEL GARDNER: What ti me di d you  
3 open the store on Saturday, the 22nd?

4 DHI RU PATEL: September 22nd is a  
5 Saturday. Every day at el even o' cl ock except  
6 for few days I just --

7 MI CHAEL GARDNER: What ti me di d you  
8 open on -- you' re cl o sed on Sundays?

9 DHI RU PATEL: No, we open.

10 MI CHAEL GARDNER: You' re open on  
11 Sundays?

12 DHI RU PATEL: Yeah.

13 MI CHAEL GARDNER: What ti me di d you  
14 open on Sunday, the 23rd?

15 DHI RU PATEL: Twel ve o' cl ock.

16 MI CHAEL GARDNER: I ' m sorry?

17 DHI RU PATEL: Twel ve o' cl ock.

18 MI CHAEL GARDNER: Twel ve o' cl ock?

19 Is that your li cense to open at twel ve  
20 o' cl ock?

21 DHI RU PATEL: Yes.

1                   MI CHAEL GARDNER: What time did you  
2                   open the store on Monday, the 24th?

3                   DHI RU PATEL: We open at el even  
4                   o' cl ock.

5                   MI CHAEL GARDNER: 24th el even  
6                   o' cl ock?

7                   DHI RU PATEL: Yeah.

8                   MI CHAEL GARDNER: What time did you  
9                   open the store on Tuesday, the 25th?

10                  DHI RU PATEL: El even.

11                  MI CHAEL GARDNER: El even?

12                  DHI RU PATEL: Yeah.

13                  MI CHAEL GARDNER: What time did you  
14                  open the store on Wednesday, the 26th?

15                  DHI RU PATEL: 26th i s el even.

16                  MI CHAEL GARDNER: That' s Wednesday  
17                  the 26th?

18                  DHI RU PATEL: Yeah.

19                  MI CHAEL GARDNER: Do you remember  
20                  havi ng a conversati on wi th Ms. Boyer on that  
21                  day?

1 DHI RU PATEL: 26th?

2 MI CHAEL GARDNER: Yes. A tel ephone  
3 conversati on.

4 DHI RU PATEL: Yeah. She --

5 MI CHAEL GARDNER: What do you  
6 remember about that tel ephone conversati on?

7 DHI RU PATEL: I had to wri te some  
8 l etter to El i zabeth.

9 MI CHAEL GARDNER: Wel l , wri te a  
10 l etter to El i zabeth about what?

11 DHI RU PATEL: That l etter says  
12 el even o' cl ock, but we had to go back to ni ne  
13 o' cl ock.

14 MI CHAEL GARDNER: That you  
15 understood you needed to wri te a l etter to  
16 Ms. Li nt about that subj ect?

17 DHI RU PATEL: Yeah.

18 MI CHAEL GARDNER: How di d that come  
19 up?

20 DHI RU PATEL: I wro te a l etter to  
21 her. My pri nter wasn' t worki ng so I j ust

1 hand it and give it to her.

2 MICHAEL GARDNER: So you handwrote a  
3 letter to Ms. Lint?

4 So a copy of this is already in the  
5 file?

6 ELIZABETH LINT: That's the file  
7 copy.

8 MICHAEL GARDNER: So this is a  
9 handwritten letter dated September the 26th,  
10 2012, from you with the Prospect Liquors as  
11 the return address. And the first page of  
12 the letter describes some personal  
13 circumstances and some financial  
14 circumstances. Paragraph circled and  
15 labeled No. 3 described some other family  
16 circumstances in the beginning, and then  
17 describes some -- your accounting of the  
18 conditions around the store, including when  
19 school buses come by and leave. And it  
20 concludes there is no problem with any  
21 homeless people in the morning. Please let

1 me open my store on regular time. It would  
2 be a great help to pay my bill in this bad  
3 time. I would greatly appreciate your help.  
4 Thanks.

5 And the subject of the letter initially  
6 was requesting a change back to the opening  
7 hours of Prospect from eleven a.m. to nine  
8 a.m. And the opening sentence is that you  
9 requested to let the store be open at nine  
10 a.m. As you're closing the store two days  
11 every week, it's difficult to maintain your  
12 account and run your daily life.

13 So, why --

14 DHIRU PATEL: After that letter --

15 MICHAEL GARDNER: I just want to  
16 understand why you wrote the letter.

17 DHIRU PATEL: After that letter I  
18 was impressing that it would be okay to open,  
19 but I opened just one half hour. At 9:20 I  
20 opened on 27th. 28th.

21 MICHAEL GARDNER: So on the 27th you

1 opened at 9:20?

2 DHI RU PATEL: Yeah, after 9:15.

3 MI CHAEL GARDNER: And what time did  
4 you open on the 28th?

5 DHI RU PATEL: Approximatel y the same  
6 time.

7 MI CHAEL GARDNER: At 9:20?

8 DHI RU PATEL: Yeah.

9 MI CHAEL GARDNER: And what time did  
10 you open on the 29th?

11 DHI RU PATEL: And then I started  
12 openi ng at el even o' cl ock.

13 MI CHAEL GARDNER: And have you  
14 opened at el even o' cl ock every day si nce then  
15 except for the days you may have been on  
16 suspensi on?

17 DHI RU PATEL: Yeah. After that  
18 l etter I j ust was impressi on that i t woul d be  
19 okay to --

20 MI CHAEL GARDNER: So your testi mony  
21 i s that the only two times you opened before

1           el even o' clock just happened to be the two  
2           times that Ms. Boyer checked?

3                   DHI RU PATEL:   I don' t know.

4                   MI CHAEL GARDNER:   I di dn' t hear your  
5           answer.

6                   DHI RU PATEL:   I have no i dea  
7           what.... I don' t know about that.

8                   MI CHAEL GARDNER:   Wel l , Ms. Boyer  
9           checked on the 27th and 28th; right?

10                  DHI RU PATEL:   Yeah. I don' t --

11                  MI CHAEL GARDNER:   You were open --

12                  DHI RU PATEL:   I don' t --

13                  MI CHAEL GARDNER:   -- before el even  
14           on those days, but you' re telling us you  
15           never opened before el even prior to that or  
16           after that; those were the only two days?

17                  DHI RU PATEL:   Yeah.

18                   I thi nk I di dn' t see her on the 27th.  
19           Only one ti me she came on the 28th.

20                  MI CHAEL GARDNER:   She tal ked to you  
21           once on the 28th?

1 DHI RU PATEL: Yeah.

2 MI CHAEL GARDNER: But on the 26th  
3 when she talked to you, you knew the License  
4 Commission said your opening time was eleven  
5 a.m., didn't you?

6 DHI RU PATEL: Yes.

7 MI CHAEL GARDNER: And yet on the  
8 27th you opened at 9:20?

9 DHI RU PATEL: Yeah. Because I --

10 MI CHAEL GARDNER: And why did you do  
11 that?

12 DHI RU PATEL: I wrote that letter I  
13 was under the impression that they would do  
14 that. It was my mistake. I apologize for  
15 that.

16 MI CHAEL GARDNER: Well, you wrote a  
17 letter requesting that we make the change;  
18 right?

19 DHI RU PATEL: Yeah.

20 MI CHAEL GARDNER: And you thought by  
21 writing the letter that was it, that

1           magically that the change had happened?

2                   DHIRU PATEL:   No.

3                   MICHAEL GARDNER:   So what did you  
4           think on the 27th?

5                   DHIRU PATEL:   It was my mistake that  
6           I -- I had a too much problem of financial  
7           problem, and I thought they will -- I talked  
8           to Elizabeth about that, my financial  
9           problem, so I thought --

10                  MICHAEL GARDNER:   When did you talk  
11           to Elizabeth?

12                  DHIRU PATEL:   I talked to her  
13           before, and I wrote that letter so I thought  
14           she might read my financial problem in that  
15           letter.

16                  MICHAEL GARDNER:   So you talked to  
17           Elizabeth while you were negotiating the  
18           settlement of the suspension prior to  
19           September 18th; is that the conversation  
20           you're talking to her about?

21                  DHIRU PATEL:   Yeah.

1                   MICHAEL GARDNER: You didn't talk to  
2 her after the September 18th letter; yes or  
3 no?

4                   DHIRU PATEL: I think I talked to  
5 her, but I wrote the letter so...

6                   MICHAEL GARDNER: Yes, okay.

7                   DHIRU PATEL: I talked to her --

8                   MICHAEL GARDNER: In your  
9 conversations with Ms. Lint, did she make it  
10 clear to you that the starting time was  
11 eleven --

12                  DHIRU PATEL: No, she just said --

13                  MICHAEL GARDNER: -- and that it  
14 couldn't be changed without a vote of the  
15 Commission?

16                  DHIRU PATEL: I don't recall that,  
17 but I was -- she was telling me that okay, we  
18 will see what we can do, you know. So I was  
19 thinking it's okay.

20                  MICHAEL GARDNER: So Ms. Lint told  
21 you as far as you understand, we'll see what

1 we can do?

2 DHI RU PATEL: Yeah, right.

3 MI CHAEL GARDNER: And you thought  
4 that that was permission to open at nine?

5 DHI RU PATEL: Not really, no.

6 MI CHAEL GARDNER: Well, what did you  
7 think? This is your license.

8 DHI RU PATEL: I know.

9 MI CHAEL GARDNER: This is a city  
10 license that's been granted to you. We're  
11 trying to understand what you understand.

12 DHI RU PATEL: Yeah.

13 MI CHAEL GARDNER: And how honest and  
14 truthful you are.

15 DHI RU PATEL: I know. I apologize  
16 for that. I opened one, one and half hour I  
17 opened early. It was my mistake.

18 MI CHAEL GARDNER: Then why did you  
19 do that?

20 DHI RU PATEL: My financial problem  
21 is so bad that I cannot even pay my

1 daughter' s col l ege fees. She got a letter to  
2 rent the apartment. And my wife is in a bad  
3 si tuati on and she' s cry all the time and we  
4 don' t have no money at all. My account is  
5 the -- in the mi nus. I' m fi nanci ally in a  
6 bad si tuati on. There' s no way that I can  
7 close two days a week that I can make it up,  
8 because \$4,000 or \$8,000, I have a di ffi cul t  
9 time to get it from anywhere. There' s no way  
10 that I can make it. So I' m fi nanci ally very  
11 hardshi p. Terri bl y hardshi p. And I was over  
12 here and tal king to El izabeth that I' m real ly  
13 in a very bad shape, that I don' t have no  
14 money at all. So, I was worri ed that how I  
15 can come up wi th thi s, you know?

16 I apol ogi ze for what I made a mi stake,  
17 but just gi ve me one chance that I wi ll  
18 fol low all of your rul es and regul ati ons and  
19 whatev er, just let me stay there to come up  
20 wi th cri si s. Because I di dn' t even tel l my  
21 wi fe that I close. I just sai d few days

1 closed, because she cry everyday and she will  
2 have a heart attack. She has a health  
3 problem. So I just have to tell her that  
4 everything will be okay, no problem, and just  
5 let it go.

6 My daughter cries. She said, daddy, if  
7 you won't pay that money, I will be out of  
8 college. So what are you going to do? So I  
9 went to my friend and I borrow some money  
10 and pay the fee and then just keep her in the  
11 college. So it's very difficult time for me  
12 to close the store. I really apologize,  
13 apologize for the mistake, I did it, but I  
14 will follow all your rules and regulations  
15 through my attorney. He will watch all  
16 documents and everything and maybe he will  
17 help me out what I supposed to do, what I  
18 don't supposed to do. If I have made any  
19 mistake, he will correct it.

20 MICHAEL GARDNER: Tell me about the  
21 people in the back room.

1                   DHIRU PATEL: Actually, this is the  
2 true story. That one guy he usually come  
3 once in a while. He drinks non-alcoholic  
4 beer. It's Walter Souza, the previous owner  
5 brother. And non-alcoholic beer is allowed  
6 to drink. And I talked to ABCC someone, and  
7 they say it's okay. So he comes once in a  
8 while. When he go to bank, he stop by and he  
9 drinks non-alcoholic. And the other guy, his  
10 friend, he comes, too, but he come  
11 (inaudible) he drinks only Sprite, you know?  
12 Sometimes he buy small bottle of wine, but he  
13 take it home. He don't drink it there. I  
14 don't allow nobody to drink in my store.  
15 Only this non-alcoholic person, Walter's  
16 brother. On that day, he said I got to go to  
17 the bathroom. He went to the bathroom, and I  
18 told Andrea that he went to the bathroom.  
19 And I used -- I heard the sound that he flush  
20 the toilet. So I thought he went to the  
21 bathroom, but when I talked to him, and he

1           said I changed my mind and I drink that small  
2           wine. Instead of home, I drink it at the  
3           store. That's what he said. Because I  
4           didn't know that. And then Andrea came, I  
5           was at register and I -- they're talking  
6           their language. They talking in the back  
7           room, and one went to the bathroom. So I  
8           thought he went to the bathroom, otherwise I  
9           could have stopped him. And the thing is  
10          that when he bought it, purchase, I told him  
11          use the brown bag, but he said no, I put it  
12          in the pocket. He was wearing jacket. So  
13          sometimes when he has a jacket, he said  
14          forget about brown bag, I'll take it in my  
15          pocket. So he take it home, he don't drink  
16          it until he got home.

17                   MICHAEL GARDNER: So you knew he  
18                   bought the wine that day?

19                   DHIRU PATEL: Yeah. But I thought  
20                   he would take it home. So he put it in the  
21                   jacket, but when he used the bathroom, so he

1           went to the bathroom, so he change his mind  
2           and he drink it. So I don't know about that  
3           until Andrea found it that he drink it. And  
4           then he said, I'm sorry that I don't supposed  
5           to drink that, because I told everyone that  
6           nobody drink in the back room. Nobody. Only  
7           this guy, Walter's brother sometimes he come  
8           and drink non-alcoholic. But this is the  
9           first time this guy drink in the back room.

10                   MICHAEL GARDNER: So, this really  
11           wasn't your fault?

12                   DHIRU PATEL: No. I -- honest to  
13           God, I didn't that know he gonna drink in the  
14           back room. I thought use the bathroom,  
15           that's why he went there. And then he must  
16           be talking to the other guy. That's when  
17           Andrea came, I think they are talking or one  
18           went to the bathroom, that's what I say to  
19           Andrea.

20                   MICHAEL GARDNER: How long had they  
21           been there before Ms. Boyer came?

1                   DHI RU PATEL: Just a maybe three,  
2                   four minutes. Just, they ran inside.

3                   MI CHAEL GARDNER: You understand  
4                   it's your responsibility to police the back  
5                   room to make sure nobody's drinking, don't  
6                   you?

7                   DHI RU PATEL: I know. I don't allow  
8                   nobody, only the -- this is Walter's brother.  
9                   He drink no alcoholic in there. Because I  
10                  know no alcoholic beer is like a root beer,  
11                  people can drink it. That's what I found the  
12                  information, otherwise I could have stopped  
13                  him, too.

14                  MI CHAEL GARDNER: Well, you're in  
15                  control of the back room.

16                  DHI RU PATEL: Yes.

17                  MI CHAEL GARDNER: You decide who  
18                  goes back there.

19                  DHI RU PATEL: Yes.

20                  MI CHAEL GARDNER: Chief Reardon?

21                  DHI RU PATEL: I'm just asking you,

1 please, only one chance.

2 GERALD REARDON: Mr. Patel, the last  
3 time you were here in January, when you got  
4 finished testifying, I was very uneasy about  
5 even your ability to run the store based upon  
6 your questions. Nothing is ever your fault.  
7 You dispute everything that's in hard  
8 evidence. You seem to be in denial. I  
9 understand the financial. I assume you paid  
10 a lot for this license, and it's probably  
11 very difficult to make a living at it. The  
12 problem you're doing here is you're doing  
13 yourself a disservice, because if you have no  
14 liquor license, you'll have no money and  
15 you'll still have a lease payment. But you  
16 continue to push the edge. I don't think you  
17 take responsibility for anything that's  
18 happening there. Again, I'm not  
19 unsympathetic. But for you to come in here  
20 and say that the only two times you were open  
21 early was the two times you got caught. The

1           only time that the person in the back room  
2           ever drank was the time you got caught. It  
3           doesn't make a lot of sense to a rational  
4           person. And you tell us the last time when  
5           you left here that I can't tell if someone's  
6           impaired. You said I won't sell to street  
7           people. We said you can't discriminate to  
8           street people. You can't sell to impaired  
9           people. And your answer was I don't have a  
10          breathalyzer, how am I supposed to tell?  
11          That's not a very good answer for a package  
12          store owner. A package store owner has to be  
13          able to turn around and tell the patrons that  
14          come in there, and tell and train your help  
15          that you can't sell to people who appear to  
16          be impaired. You can't profile them, and you  
17          can't -- it doesn't mean they have to have a  
18          breathalyzer, but there's very common sense  
19          items for people who seem to be impaired that  
20          you, as a package store owner, should be  
21          trained highly more than the average person

1 to understand this. And I think  
2 unfortunately your financial problem is  
3 making you do very, very, very bad decisions  
4 based upon trying to make sales.

5 DHIRU PATEL: I have one thing to  
6 say.

7 ATTORNEY GERALD VAN DAM: Just....

8 GERALD REARDON: It's very hard for  
9 me to sit here and give you yet another  
10 chance. You have not been forthcoming with  
11 this, in my opinion, since the day you've  
12 walked in here, and you've been in here  
13 several times.

14 DHIRU PATEL: I stop all that bad  
15 homeless people used to come.

16 GERALD REARDON: And, again, you  
17 can't discriminate against someone who is  
18 homeless. But we're talking about people who  
19 seem to be impaired. Let's understand that  
20 we're not discriminating against any class of  
21 people, but anyone that comes in. If someone

1           came in in a three piece suit and seemed to  
2           be unsteady on their feet and glassy-eyed and  
3           so forth, you would also not serve them, so I  
4           want to make that clear.

5                     DHIRU PATEL: No, no, we don't sell  
6           them. No. We don't sell to any intoxicated  
7           people, never. As they walk in, if they are  
8           not able to walk through the door, we don't  
9           sell them. The last person was caught, he  
10          was a physically disabled person and he  
11          didn't drink any more and that's, I can bet  
12          my life on that. He never drink anymore and  
13          he just couldn't find any ride. When he  
14          needed a ride, he came there. And the way he  
15          talked, it looked like he was drunk but  
16          physically, he was physically disabled and he  
17          explained the Board that.

18                    MICHAEL GARDNER: Well, you  
19          understand that you gave up your right to  
20          make that claim that you were innocent to  
21          selling to intoxicated persons once you made

1 the settlement with Ms. Lint? You understand  
2 that, don't you?

3 DHIRU PATEL: I don't have a no  
4 choice.

5 MICHAEL GARDNER: Well, you had the  
6 choice of continuing to appeal.

7 DHIRU PATEL: No, but he died. He  
8 died. So we have no witness. My lawyer  
9 said --

10 MICHAEL GARDNER: Well, you didn't  
11 have any witnesses here either because nobody  
12 came forward.

13 What have you done about --

14 DHIRU PATEL: My lawyer said --

15 MICHAEL GARDNER: All right. What  
16 have you done about hiding the nips?

17 DHIRU PATEL: It says out of sight.  
18 That means --

19 MICHAEL GARDNER: What have you done  
20 about that?

21 DHIRU PATEL: I moved from that --

1 my attorney came and I moved that.

2 MICHAEL GARDNER: When did you do  
3 that?

4 DHIRU PATEL: Yesterday. Because  
5 out of sight means, as I know that this one,  
6 we be able to watch. But no homeless people  
7 buy the nips that they can see. They just  
8 buy some other stuff that leaves -- the nips  
9 is out of -- they can see it. The other  
10 people buy. Some regular people buy. The  
11 homeless people, they don't buy the nips.  
12 It's expensive ones.

13 ATTORNEY GERALD VAN DAM: Are the  
14 nips now out of sight?

15 DHIRU PATEL: So, out of sight means  
16 you shouldn't be able to see it, right?

17 ATTORNEY GERALD VAN DAM: Did you  
18 remove them from the cash register area?

19 DHIRU PATEL: Yeah, on the cash  
20 register.

21 ATTORNEY GERALD VAN DAM: Next to

1 the cash register and the shelves behind to  
2 the register?

3 DHIRU PATEL: Itself is --

4 ATTORNEY GERALD VAN DAM: Did you  
5 remove those?

6 DHIRU PATEL: No, because on the  
7 shelf, nobody can reach there. Only they can  
8 see it.

9 GERALD REARDON: That's called out  
10 of sight, Mr. Patel.

11 DHIRU PATEL: Everybody, everybody  
12 -- all liquor store have just like this setup  
13 behind the register.

14 GERALD REARDON: Every other store  
15 is not in the same predicament as you with  
16 us, right now, Mr. Patel.

17 MICHAEL GARDNER: And you made the  
18 change that Counsel Van Dam was speaking of  
19 yesterday?

20 DHIRU PATEL: Yeah.

21 MICHAEL GARDNER: So of the three

1 conditions of the disciplinary settlement of  
2 September the 18th, the suspension days, it's  
3 the eleven o'clock closing, and was having  
4 the nips out of sight.

5 DHIRU PATEL: Yeah.

6 MICHAEL GARDNER: You didn't comply  
7 with two of those --

8 DHIRU PATEL: I have one --

9 MICHAEL GARDNER: -- until after  
10 Ms. Boyer --

11 DHIRU PATEL: I have one question.

12 ATTORNEY GERALD VAN DAM: This for  
13 them to ask you questions.

14 MICHAEL GARDNER: You were out of  
15 compliance for at least two days. You're  
16 telling us no other days were you out of  
17 compliance on the eleven o'clock opening,  
18 just the two days Ms. Boyer happened to be  
19 there. And you're also saying you didn't  
20 comply with the third component of the  
21 Commission's decision until yesterday; right?

1 DHI RU PATEL: Um, the nips, right?

2 MICHAEL GARDNER: Yes, after --

3 right, after your counsel got involved.

4 DHI RU PATEL: I interpret it out of

5 sight means you shouldn't be able to see

6 it --

7 ATTORNEY GERALD VAN DAM: You mean

8 to reach it.

9 DHI RU PATEL: But when the customer

10 comes, they can see all the things.

11 MICHAEL GARDNER: But you didn't

12 move them until yesterday.

13 DHI RU PATEL: I -- but --

14 MICHAEL GARDNER: Right?

15 DHI RU PATEL: Yeah, because one

16 thing I'm just telling you that how you can

17 move out of sight means there's quite a few

18 nips on the shelf since long time, if I have

19 to move that or hide that, it is very

20 difficult to because nobody reach there, and

21 out of sight, to make it out of sight I have

1 to put something because how I can sell it?  
2 That was the question that someone asked,  
3 okay, I need such and such nips, but if they  
4 cannot --

5 MICHAEL GARDNER: Well, you can sell  
6 it if they ask for it.

7 DHIRU PATEL: They cannot see it.  
8 Some regular people, if they cannot see it,  
9 then they cannot figure it out okay, I need  
10 that.

11 MICHAEL GARDNER: So essentially you  
12 disagreed with the License Commission's  
13 decision to put them out of sight and you  
14 chose to ignore that decision; isn't that the  
15 what we should understand what happened?  
16 Because that would make it too hard for you  
17 to sell them. Have I said that correctly?

18 DHIRU PATEL: No, I couldn't.

19 MICHAEL GARDNER: Please answer the  
20 question. The question is you disagreed with  
21 the Commission's decision that you keep the

1 nips out of sight so you ignored that, and  
2 the reason you ignored it is because that  
3 would make it too hard to sell them? Isn't  
4 that correct?

5 DHIRU PATEL: It was very difficult  
6 for me to hide all the nips to make it  
7 pertain or something.

8 MICHAEL GARDNER: So it was too hard  
9 to comply with the Commission decision so you  
10 ignored it?

11 DHIRU PATEL: So I --

12 MICHAEL GARDNER: And you ignored it  
13 to this day in the sense that you've moved  
14 them but they're still in plain sight; is  
15 that correct?

16 DHIRU PATEL: Yes.

17 MICHAEL GARDNER: Okay, thanks.

18 Mr. Van Dam, what else would you like  
19 to say? And I in particular ask you to  
20 address the issue of any reasons why we  
21 shouldn't revoke this license.

1 ATTORNEY GERALD VAN DAM: Thank you.

2 MICHAEL GARDNER: And anything else  
3 you want to have Mr. Patel add.

4 ATTORNEY GERALD VAN DAM: Is there a  
5 sign up now open at eleven?

6 DHIRU PATEL: Yes.

7 ATTORNEY GERALD VAN DAM: You heard  
8 the Chairman ask -- or I'm sorry, the Chief  
9 use the term in denial. Do you know what  
10 that means?

11 DHIRU PATEL: Yes.

12 ATTORNEY GERALD VAN DAM: What does  
13 that mean?

14 DHIRU PATEL: I didn't agree with  
15 it.

16 ATTORNEY GERALD VAN DAM: Didn't  
17 what?

18 DHIRU PATEL: I didn't agree with  
19 it.

20 ATTORNEY GERALD VAN DAM: No, denial  
21 -- okay, you didn't agree.

1 Do you understand now --

2 DHIRU PATEL: Yes.

3 ATTORNEY GERALD VAN DAM: Okay.

4 If I may, Mr. Chairman.

5 I've spent the better part of the last  
6 week awake and while trying to go to sleep,  
7 trying to advance a defense for this  
8 Cambridge businessman. I almost went to the  
9 library. I came up with maybe three that I  
10 would not be so foolish to suggest, only to  
11 mention. I thought maybe he doesn't  
12 understand English. That's not the case.

13 I thought he's incapable of digesting  
14 rules and regulations.

15 I even thought that maybe he doesn't  
16 know how to tell time, but none of these --  
17 any of these would insult everyone's  
18 intelligence.

19 Having said that, I look at this  
20 hearing as a hearing with regard to  
21 disposition. What should happen?

1 I feel that as of yesterday after  
2 speaking to Mr. Patel, and I went to his  
3 premises, that based on my explanation of the  
4 ramifications of what can happen here that  
5 he's done, he's out of business, and not only  
6 will he suffer, but his family will suffer.

7 What I'm asking is that, that's like  
8 giving him as the term goes, the death  
9 penalty. And although you've heard the  
10 testimony, I don't think, even though he's  
11 been given other chances, that that is at  
12 this point in time respectfully over  
13 punishment. I believe that he finally gets  
14 it. He suggested, he asked me if I would  
15 monitor it, at that time I didn't respond.  
16 However, perhaps at Mr. Patel's expense the  
17 city could have someone oversee his business  
18 operation to make sure that any other  
19 violation, any future violation would  
20 certainly put the coffin on this man's  
21 ability to make a living. I said to

1 Mr. Patel yesterday, I said, you have two  
2 children and when they were growing up, did  
3 they ever need to be punished? Did they ever  
4 need to be reprimanded? Whether it's --  
5 well, in my day it was go to your room. I  
6 guess in this generation I never understood  
7 this term, you give children time out is the  
8 expression now. Did you reprimand your  
9 children, tell them they can't watch TV?  
10 Tell them they have to go to bed early. Tell  
11 them they can't go to the movies on Saturday.  
12 He said, yes, I did -- and I know -- he has  
13 two very well adjusted and smart children.  
14 And he said yes, I did. That's how they  
15 turned out so well.

16 I said what would you do if you imposed  
17 a punishment and then you found out a day or  
18 two later that they completely ignored you?  
19 He said, replied, I would try to make them  
20 understand that that's not how society is  
21 run. And I tried to explain to him that this

1 Board is the parent and he's the child. And  
2 I think that maybe, hopefully, for once he  
3 understands that when a child -- parent  
4 imposes a punishment on a child, he has no  
5 choice or she has no choice but to follow the  
6 rules. But you don't, respectfully, take  
7 that child, even on the second time or the  
8 third time, and throw that child to the  
9 wolves, throw them out into the street.  
10 Perhaps there's always an opportunity -- and  
11 you don't disown them. And you don't  
12 necessarily disown a local businessman that  
13 understands now you have to do the right  
14 thing.

15 And I respectfully suggest that any  
16 punishment imposed -- and I understand it has  
17 to be more than the last one. And keep in  
18 mind that he now gets it and don't put this  
19 man out of business.

20 Thank you.

21 GERALD REARDON: I guess I'd have a

1 follow-up question, Counselor. If an  
2 additional suspension was placed on your  
3 client, I mean, I would assume that the  
4 financial hardship would even be greater.  
5 And it seems as though that the misjudgments  
6 being perpetrated or being driven by the  
7 financial issues, I guess, I'd like you to  
8 probably kind of address the fact that with  
9 the further financial hardship, you think  
10 your client would still get it, so to speak?  
11 He hasn't, he hasn't so far.

12 ATTORNEY GERALD VAN DAM: I did  
13 speak to him about that, and I told him that  
14 he is going to have to seek monetary  
15 replacement, so to speak. Perhaps his  
16 children will have to get a job during this  
17 time of suspension. Perhaps -- he owns his  
18 home. Perhaps he would have to try to get an  
19 equity loan or another mortgage on his home  
20 because life doesn't stop during the  
21 suspension. His expenses go on. The

1           Landlord has to be paid. But -- and if he --  
2           he would have to seek these alternatives.  
3           But to respectfully suspend or take away his  
4           license on the theory that if you don't, he  
5           will not be able to financially exist and  
6           he'll continue to repeat this, that's his  
7           problem. And I made him aware of this, that  
8           just because he has financial problems, is no  
9           reason to disobey this Board. He finally  
10          gets it.

11                       GERALD REARDON: Thank you.

12                       MICHAEL GARDNER: Ms. Lint, I'm  
13          looking at the notice letter of October 22nd  
14          and I'm just trying to count the prior  
15          disciplinary interventions of the Board.  
16          There was a 20-day license suspension since  
17          modified to 14; a three-day license  
18          suspension; a 10-day license suspension; a  
19          warning from '08; and a reprimand from '06.  
20          So I have five prior disciplinary  
21          interventions as summarized in your last

1 paragraph.

2 ELIZABETH LINT: That's correct.

3 MICHAEL GARDNER: All right.

4 ELIZABETH LINT: And I would -- not  
5 to make it appear worse, but the three-day  
6 and the 10-day were both in May of 2009.  
7 They were within a week of each other I  
8 believe.

9 ATTORNEY GERALD VAN DAM: That was,  
10 that in '09 that -- I was the attorney, I  
11 believe -- that was the one -- I represented  
12 Mr. Patel.

13 ELIZABETH LINT: After the hearing.

14 ATTORNEY GERALD VAN DAM: After the  
15 hearing. And one of the conditions in terms  
16 of getting it, I remember, he had to get the  
17 ID check for selling to minors. And he did  
18 do that.

19 Do you still have that?

20 DHIRU PATEL: Yes, I have it.

21 MICHAEL GARDNER: So, I guess,

1 Mr. Van Dam, I'm not persuaded by the  
2 parent/child analogy. We're a regulator of  
3 certain businesses that the Commonwealth has  
4 deemed should be regulated because of their  
5 impact on public safety and presumed at least  
6 potential dangerousness and being subject to  
7 abuse. We regulate individuals and  
8 businesses and corporations, partnerships or  
9 sole proprietors who've made a decision that  
10 they want to make an economic investment in a  
11 certain kind of industry, and are supposed to  
12 understand the terms and limitations of that  
13 industry. And that's the basis of our  
14 relationship. There is no kinship or duty of  
15 familial or sanguine loyalty as I understand  
16 it.

17 ATTORNEY GERALD VAN DAM: I was --  
18 the main thrust of my example was to try to  
19 show you that he now understands.

20 MICHAEL GARDNER: Well, I am  
21 certainly not persuaded of that. I can't

1           i magi ne our havi ng been cl earer i n January of  
2           thi s year as to what our expectati ons were.  
3           In parti cul ar, the Pol i ce Commi ssi oner' s very  
4           cl ear admoni ti ons about the soci al  
5           di srupti veness and dangerousness of the way  
6           he was conducti ng hi s busi ness. I' m pretty  
7           persuaded that he shoul d not be i n thi s  
8           busi ness, and I' m tryi ng to fi nd a way i n  
9           whi ch i t' s possi ble for hi m to l eave the  
10          busi ness wi thout sufferi ng the death penal ty  
11          of total revocati on of the l i cense. So I' m  
12          rel ati vel y new to the Commi ssi on. I' m  
13          putti ng out to you to, my fello w board  
14          member, to Ms. Lint, just that the general  
15          concept that I thi nk I' m intereste d i n  
16          fi ndi ng a way to stop Mr. Patel from  
17          operati ng thi s busi ness and gi ve hi m the  
18          chance to see i f he can sell the l i cense to a  
19          reputabl e party that we can of course have  
20          our own regul atory obl igati ons for i n terms  
21          of approvi ng the sale. I don' t know i f that

1 in fact is feasible or even legal. If it's  
2 not legal, I don't want to do it. But I'm  
3 wondering whether a suspension through  
4 December 31st of this year with the  
5 expectation that Mr. Patel will use that time  
6 to try to sell the license, and if he was  
7 unsuccessful in that, the Commission would  
8 decide at that point whether or not to grant  
9 an extension of the license into January of  
10 2013. I don't know if that's either  
11 logistically or legally something that we  
12 could do. And I'll -- but I would put it out  
13 there as an idea as a way for Mr. Patel to  
14 salvage some economic value here.

15 ATTORNEY GERALD VAN DAM: May I?

16 MICHAEL GARDNER: Yes, please. I've  
17 not made a motion, I've expressed an idea.

18 ATTORNEY GERALD VAN DAM: Would you  
19 consider postponing a decision and continuing  
20 the hearing for purpose of disposition so  
21 that I can impress upon him and tell him to

1           begin in due diligence in selling the  
2           business?

3                   MICHAEL GARDNER: Well, that would  
4           mean he'd essentially be able to continue to  
5           operate now with essentially no penalty for  
6           about as flagrant a set of violations as in  
7           my limited experience, I can recall. And I  
8           don't know if this is a significant part of  
9           your business, Mr. Van Dam, but I would  
10          venture based on your comments about the  
11          difficulty of coming up with a viable  
12          defense, that you would agree that this is  
13          about as flagrant a violation of a  
14          Commission's clear order as one can imagine.

15                   ATTORNEY GERALD VAN DAM: By  
16          postponing a decision as a practical matter,  
17          he -- any appeal to the ABCC, as you know,  
18          would stay whatever decision you make. So is  
19          there really any downside to, again,  
20          postponing the decision so we can get into --

21                   MICHAEL GARDNER: Well, I guess if

1 we were to do anything besides revoke, I'm  
2 not sure the votes to revoke are there, but  
3 if we were to do anything besides revoke, I  
4 would assume we would do it with the  
5 understanding that that was an appropriate  
6 settlement, and we would not be facing an  
7 ABCC --

8 ATTORNEY GERALD VAN DAM: That's  
9 correct.

10 MICHAEL GARDNER: -- appeal.

11 ATTORNEY GERALD VAN DAM: That's  
12 correct.

13 MICHAEL GARDNER: So my question is  
14 under what terms we give him the opportunity  
15 to try to sell the license while he's not in  
16 operation.

17 ATTORNEY GERALD VAN DAM: Well, he's  
18 not in operation.

19 MICHAEL GARDNER: You essentially  
20 said he should get a suspension of more than  
21 14 days.

1 ATTORNEY GERALD VAN DAM: Yes, I'm  
2 not --

3 MICHAEL GARDNER: So a suspension is  
4 sort of in the wind. What I'm upping the  
5 ante to say is he's got to leave the  
6 business, but I'm prepared to find a way so  
7 that he can convert the license into  
8 something of economic value. And I'm hearing  
9 you say that presents too many problems for  
10 you.

11 ATTORNEY GERALD VAN DAM: Well, no.  
12 A suspension for even more than 14 days, if  
13 reasonably spread out in time, would not  
14 cause -- as a practical matter, again, get  
15 him through the Christmas season and holiday  
16 season, the Thanksgiving.

17 MICHAEL GARDNER: Well, if he owns a  
18 home free and clear in Burlington.

19 ATTORNEY GERALD VAN DAM: I don't  
20 know if it's free and clear. I don't know.

21 MICHAEL GARDNER: Well, you know, as

1           you indicated, though, there may or may not  
2           be other financial means available, but that  
3           -- it sort of isn't our problem, you know.  
4           In fact, part of the problem here is that  
5           he's undercapitalized to run this business  
6           and is essentially having to violate our  
7           rules to try and meet his monthly  
8           obligations, that's an indication the license  
9           does -- should not be continued to be held by  
10          him.

11                   DHIRU PATEL:  No, I'm not qualified  
12           to get approval at all.  And I don't get even  
13           any of the mortgages, too, because I have  
14           quite a few debt from my son's loan, my  
15           daughter's loan.  And I won't be able -- I'm  
16           the only one is working person in the full  
17           family.  So, there is no other way that I  
18           will survive for any other source.  I don't  
19           have a no source at all.  Completely zero.  
20           If, please, just give me one chance, you  
21           know.  I just pray to you, please, give me

1 one chance. This is my heartiest request to  
2 you one last time. Please, just for my wife  
3 and daughter that I will have a really hard  
4 time to explain this mess to both of them.  
5 You know, they will collapse. It will be a  
6 big disaster for me. I will be gone for the  
7 life. Give me just the one last chance.  
8 This is my last situation. If I have any  
9 anything that you find, then I will live by  
10 myself. I will leave without, I will give  
11 you the license and bring it myself, but just  
12 give me one chance, please. One chance,  
13 please. I just wish to -- because I'm going  
14 to have a terrible time. I won't be able to  
15 give this message to my wife. You know? I  
16 will have to call 9-1-1 or whatever it is.  
17 She's very depressed. She cry everyday. I  
18 talk to Elizabeth Lint about that, that how  
19 can I explain to her. It's very difficult.  
20 She going to have a heart attack.

21 ATTORNEY GERALD VAN DAM:

1 Understanding it's not your issue.

2 Understanding, you know, it's not Cambridge's  
3 issue. It's not Cambridge's problem. I did  
4 suggest to him that perhaps his wife would  
5 even come to the hearing today. And when he  
6 told me that it might cause her to become  
7 more sick and have a heart attack. And then  
8 I waited and I suggested that she not come.

9 MICHAEL GARDNER: Well, certainly,  
10 Mr. Patel, if you're having difficulty in  
11 figuring out how you explain the board's  
12 actions to your wife, I'm sorry that you  
13 didn't --

14 DHIRU PATEL: Wait --

15 MICHAEL GARDNER: Please. I'm  
16 sorry, that you didn't consider that before  
17 you decided to ignore the Board's actions in  
18 late September.

19 I realize that I have not given any  
20 members of the public the opportunity to be  
21 heard on this matter before we make a

1           di s p o s i t i o n o f i t. I w o u l d a s k i f t h e r e a r e  
2           a n y m e m b e r s o f t h e p u b l i c w h o w o u l d l i k e t o  
3           b e h e a r d?

4                           (No Response.)

5           M I C H A E L G A R D N E R: S e e i n g n o n e, y o u r  
6           t h o u g h t s, C h i e f?

7           D H I R U P A T E L: J u s t g i v e m e o n e  
8           c h a n c e, p l e a s e.

9           A T T O R N E Y G E R A L D V A N D A M: O k a y.

10          G E R A L D R E A R D O N: I t ' s -- y o u  
11          p r o b a b l y h a v e t h e w o r s t r e c o r d i n m y g o i n g o n  
12          13 y e a r s h e r e o f a n y l i c e n s e. T h i s i s n o t  
13          y o u r f i r s t t i m e, t h i s i s n o t y o u r s e c o n d  
14          t i m e, i t ' s y o u r s i x t h o r s e v e n t h t i m e. I  
15          d o n ' t u n d e r s t a n d h o w y o u e q u a t e t h i s i n y o u r  
16          o w n m i n d t h a t b e n d i n g t h e r u l e s a n d g e t t i n g  
17          c a u g h t a l l t h e t i m e s o m e h o w m a k e s i t r i g h t.  
18          Y o u h a v e a t r a c k r e c o r d o f n e v e r f o l l o w i n g  
19          w h a t w e ' v e s u g g e s t e d. I m e a n, t h e i d e a o f  
20          i s s u i n g p u n i s h m e n t t o s o m e o n e i s t o s e n d t h e  
21          m e s s a g e t o c h a n g e t h e w a y t h e y ' r e d o i n g

1 business and make them understand that they  
2 have to follow the rules, and you've been  
3 here a number of times. And most of the time  
4 you come here, again, I understand your  
5 financial hardship and I think that's  
6 probably, in my estimation, 99 percent of  
7 your problem here, is that you're, you know,  
8 as the Chairman says, you're out well  
9 capitalized and you're taking chances all the  
10 time to try to make ends meet. And it  
11 appears as though that you've taken that trek  
12 now for probably seven to ten years, and you  
13 haven't changed time after time after time.  
14 So our job here is as regulatory agents is to  
15 do the right thing by the general public and  
16 we can't be persuaded by personal, financial  
17 issues.

18 Having said that, I would be willing to  
19 come up with something that we can deal with  
20 in terms of solving the issue here. We  
21 cannot not act. We have other licensees out

1           there. We have a progressive type  
2           discipline. We've gone far beyond this. You  
3           told us the last time that if you got this  
4           chance, it would change and we're back here  
5           again in seven months, give or take.

6                        I would be willing to entertain  
7           something that we can somehow deal with your  
8           license issue to give you the opportunity to  
9           sever yourself from the business without  
10          total financial hardship. I don't really  
11          know at this time what that answer is, but  
12          I'm willing to listen to that.

13                     DHIRU PATEL: Please give me one  
14          chance.

15                     ATTORNEY GERALD VAN DAM: Please.

16                     MICHAEL GARDNER: Ms. Lint, do you  
17          think there's any way that strikes you as  
18          something that is consistent with our  
19          authority here to accomplish the end of  
20          giving Mr. Patel the opportunity to try to  
21          find a suitable buyer for the license in a

1 reasonable amount of time?

2 ELIZABETH LINT: And while he's open  
3 or closed?

4 MICHAEL GARDNER: Well, either way.

5 ELIZABETH LINT: Because it's my  
6 thoughts if he's going to be open for any  
7 length of time whatsoever, that he absolutely  
8 would have to have retraining with  
9 Mr. Connolly without a doubt. And it's clear  
10 that he doesn't really get the rules.  
11 Looking for a time?

12 MICHAEL GARDNER: Well, I'm -- I  
13 mean, you know, one -- this may not work, but  
14 you know, one possibility is to take a vote  
15 to revoke the license, which I certainly  
16 think is justified. But to delay the  
17 implementation of that until some date in the  
18 future, you know, December 15th or something  
19 like that to see if he can find a buyer. You  
20 know, whether -- then allowing the store to  
21 continue to be open according to the terms of

1 the September 18th letter, I suppose is  
2 mostly a matter of whether or not that  
3 assists the Commission in its ultimate goal,  
4 potential ultimate goal of trying to make  
5 sure as the fire chief said, Mr. Patel is  
6 able to sever himself from the business.

7 ELIZABETH LINT: Yes.

8 MICHAEL GARDNER: Does that sound  
9 like something that is potentially doable?

10 ELIZABETH LINT: I don't see why  
11 not.

12 MICHAEL GARDNER: So, Mr. Van Dam,  
13 we normally don't negotiate in public but I  
14 think this is an unusual situation in which I  
15 think we've got the votes to revoke the  
16 license. And you might want to take a couple  
17 of minutes to confer with your client, but I  
18 would be interested in should we take a vote  
19 to revoke, delay the implementation date of  
20 the revocation until --

21 GERALD REARDON: Can I suggest maybe

1 January 15th to get passed the holidays and  
2 the season?

3 MICHAEL GARDNER: Some date in the  
4 future? January 15th. During the meantime  
5 the licensee may remain open pursuant to the  
6 terms of the September 18th letter, including  
7 the suspension days to be held, including the  
8 requirement for an eleven o'clock opening.  
9 Including the requirement that the nips be  
10 out of sight. Further understanding that  
11 should there be any future violations  
12 discovered with the clear understanding that  
13 this place will be monitored. The revocation  
14 will be imposed immediately.

15 Under terms like that are you prepared,  
16 you can confer to advise your client or reach  
17 an understanding that such a decision would  
18 be deemed final after any appeal period  
19 lapsed.

20 ATTORNEY GERALD VAN DAM: And I  
21 don't know the answer to this, maybe Ms. Lint

1 does. I have to concern myself with the  
2 issue of his right to appeal. My question  
3 then would become when would the appeal  
4 period start to run on the implementation?

5 ELIZABETH LINT: Yes.

6 MICHAEL GARDNER: Well, yes.

7 ATTORNEY GERALD VAN DAM: That's  
8 important, thanks. That's important. I  
9 can't put myself in a position where I don't  
10 -- you're going to revoke and then you can't  
11 ask me to respectfully not to appeal.

12 MICHAEL GARDNER: Well, we don't  
13 really have an understanding. We don't have  
14 an understanding then, because all you have  
15 to do is make de minimus efforts to try to  
16 sell. And come January 15th say we appeal.  
17 So, okay. Why don't you take five minutes  
18 with your client.

19 ATTORNEY GERALD VAN DAM: Just so I  
20 understand without getting -- all right. You  
21 are asking -- I'm sorry, you are asking me to

1           advise him to waive almost my right to  
2           appeal; is that right?

3                   MICHAEL GARDNER: I'm asking you --

4                   ATTORNEY GERALD VAN DAM: Just so I  
5           understand that.

6                   MICHAEL GARDNER: Yes, right.

7                   ATTORNEY GERALD VAN DAM: Okay. As  
8           a lawyer I need to know that.

9                   MICHAEL GARDNER: I think that's --  
10          I don't see any reason not to take immediate  
11          action unless we have reached an -- unless  
12          we've reached an understanding.

13                   ATTORNEY GERALD VAN DAM: I  
14          understand and respect what you're saying,  
15          but by the same token from a lawyer's point  
16          of view, it's -- you're, again, you're asking  
17          me to waive a right of appeal that he does  
18          have. And I don't know within myself whether  
19          I can do that no matter how generous you want  
20          to be. And I believe you do want to be very  
21          generous --

1                   MICHAEL GARDNER: Well, then the  
2                   alternative --

3                   ATTORNEY GERALD VAN DAM: -- but I  
4                   can't put myself in a position where I'm  
5                   going to be in trouble.

6                   MICHAEL GARDNER: Right. Then isn't  
7                   the alternative for us to act today, and your  
8                   decision as to whether or not your chances on  
9                   appeal are such that that's the risk you want  
10                  to take I suppose.

11                  ATTORNEY GERALD VAN DAM: It's not  
12                  even a question of risk. It's a question  
13                  of... can we have a moment?

14                  MICHAEL GARDNER: Please.

15                  So it's approximately 11:25. We'll  
16                  take a five minute recess.

17                  (A short recess was taken.)

18                  MICHAEL GARDNER: So by my watch  
19                  it's approximately 11:30 on the morning of  
20                  October the 9th. We'll reconvene the  
21                  disciplinary hearing after a brief recess.

1                   ATTORNEY GERALD VAN DAM: Yes, thank  
2                   you.

3                   MICHAEL GARDNER: Mr. Van Dam,  
4                   you've had an opportunity to consult with  
5                   your client?

6                   ATTORNEY GERALD VAN DAM: Yes, I  
7                   have and appreciate the opportunity. And  
8                   respectfully we would ask the Board to -- the  
9                   Chairman to make a decision.

10                  MICHAEL GARDNER: So, I'll make the  
11                  motion that Mr. Patel's license to operate  
12                  the package liquor store be revoked as of  
13                  January 15, 2013. During that time period  
14                  between now and then he be allowed to operate  
15                  his store consistent with the terms of the  
16                  September 18th letter from Ms. Lint and the  
17                  -- any other conditions which may have been  
18                  put as a result of the January 10, 2012  
19                  hearing.

20                  That the purpose for the delay  
21                  revocation of license is to give Mr. Patel

1 the opportunity to seek a suitable buyer for  
2 the license given the financial hardships  
3 he's faced. But that the reason for  
4 revocation is based on his long and troubled  
5 disciplinary history and his direct and  
6 intentional violation of the Commission order  
7 less than 24 hours after he was reminded by  
8 the City's Chief Investigator of his  
9 obligations and I think were complete in the  
10 record, that his simple decision that he did  
11 not agree to follow those rules because of  
12 his own private interests, and within days of  
13 negotiating settlement with the Commission  
14 chose to ignore the Commission's rules.

15 Is there a second?

16 GERALD REARDON: Second.

17 MICHAEL GARDNER: Motion having been  
18 made and seconded, would simply comment that  
19 my understanding that I would put on the  
20 record is that the Commission's view is that  
21 any appeal rights to this order should pass

1 would begin as of today as the effective date  
2 of order is today.

3 Do you have any comments on that,  
4 Mr. Van Dam?

5 ATTORNEY GERALD VAN DAM: No. I  
6 have more of a question. I assume -- well,  
7 you'll render a written opinion and give to  
8 -- and she'll give it to us?

9 MICHAEL GARDNER: Yes, right.

10 ATTORNEY GERALD VAN DAM: Right.

11 MICHAEL GARDNER: I guess my  
12 question to you is do you understand and  
13 agree that the time period for the appeal  
14 begins with today or the day you get the  
15 official notice of the Commission action?

16 ATTORNEY GERALD VAN DAM: I believe  
17 that's the case, yes. Regardless as a  
18 practical matter, I am going to appeal within  
19 the time frame starting today.

20 MICHAEL GARDNER: Okay.

21 ATTORNEY GERALD VAN DAM: I'm not

1 going to take a chance that I'm wrong.

2 MICHAEL GARDNER: All right. Okay.

3 Motion having been made and seconded,  
4 all those in favor signify by saying "Aye."

5 GERALD REARDON: Aye.

6 MICHAEL GARDNER: Aye.

7 None opposed.

8 Mr. Patel, I hope you are successful in  
9 being able to transition out of a business  
10 which I believe we are satisfied you don't  
11 have any business being in. Good luck to you  
12 with that.

13 Mr. Van Dam, thank you for your  
14 assistance.

15 ATTORNEY GERALD VAN DAM: Thank you.

16 MICHAEL GARDNER: Ms. Boyer, thank  
17 you for your diligence. Please, Ms. Boyer,  
18 make sure that the continued operation of the  
19 store is closely monitored.

20 ANDREA BOYER: Yes, I will.

21 MICHAEL GARDNER: Thank you.

1 Any other business before the  
2 Commission at this time?

3 ELIZABETH LINT: Well, we can do the  
4 policy hearing.

5 MICHAEL GARDNER: All right.

6 Commissioner Haas having joined the  
7 audience but not having participated in this  
8 disciplinary matter. We did have one other  
9 item on the agenda to create a new class of  
10 wine and malt beverages. And we did have one  
11 member of the public who may have been  
12 interested in commenting. We gave all  
13 members of the public the opportunity to  
14 decide whether or not they wished to stay to  
15 see if we would have the three Commissioners  
16 here to consider this matter. By the  
17 emptiness of the room it appears that no one  
18 chose to stay, but I think if the other two  
19 Commissioners are so inclined, we can go  
20 ahead with that public hearing now.

21 Unless, Ms. Lint, you think somehow

1           that the notice we've given is defective  
2           here.

3                     ELIZABETH LINT: I don't think it  
4           was defective. In fact, a phone call was  
5           made to one person who was extremely  
6           interested and they're not here.

7                     MICHAEL GARDNER: Okay.

8                     ELIZABETH LINT: So it's the Board  
9           of License Commissioners will hold a policy  
10          hearing to create a new class of wine and  
11          malt beverages as a restaurant license with  
12          two a.m. closing time. The license fee will  
13          be \$2,475 for transferable licenses, and  
14          \$4,944 for city-issued non-transferable  
15          licenses.

16                    MICHAEL GARDNER: And as I recall  
17          from the general conversation we had about  
18          this matter, perhaps at our last hearing or  
19          at least in the past, those dollar values are  
20          arrived at as some sort of a ratio or  
21          proportionality to a one a.m. license?

1 ELI ZABETH LINT: Correct.

2 MICHAEL GARDNER: So they're  
3 proportionally somewhat higher given the  
4 extended hours of operation?

5 ELI ZABETH LINT: Correct.

6 MICHAEL GARDNER: And this arises  
7 because we did have an applicant earlier this  
8 year who requested a two a.m. beer and wine  
9 license which was approved on a two to one  
10 vote.

11 ELI ZABETH LINT: Correct.

12 MICHAEL GARDNER: And --

13 ELI ZABETH LINT: Let me just. . . .

14 GERALD REARDON: It was Tasty  
15 Burger.

16 ROBERT HAAS: What are you looking  
17 for?

18 ELI ZABETH LINT: Tasty Burger.

19 ROBERT HAAS: It was a two to one  
20 vote.

21 ELI ZABETH LINT: It was determined

1 after the fact that it was just an oversight,  
2 that it was a category we never had.

3 MICHAEL GARDNER: We've never made  
4 that provision before.

5 ELIZABETH LINT: Right.

6 MICHAEL GARDNER: And as I recall  
7 last time, we talked a little bit about the  
8 number of beer and wine licenses there are.  
9 As I recall about 40% of the total licenses?

10 ELIZABETH LINT: I think so.

11 MICHAEL GARDNER: The other 60  
12 percent being all alcohol, and those licenses  
13 having a variety of closings between one and  
14 two.

15 ELIZABETH LINT: Correct. Actually,  
16 probably between twelve and two.

17 MICHAEL GARDNER: Between twelve and  
18 two.

19 So, are there any members of the public  
20 who would like to be heard on this matter?

21 (No Response.)

1                   MICHAEL GARDNER:   Seei ng none, I  
2                   guess i t' s appropriate to open for general  
3                   di scussi on of the Commi ssi on.

4                   ROBERT HAAS:   So I know we asked  
5                   thi s questi on once before, and I guess -- I' m  
6                   just trying to figure out why we made a  
7                   di fferenti ati on between beer and wi ne versus  
8                   all alcohol li cense i n terms of establ i shi ng  
9                   two separate hours, gi ven hours.

10                  ELIZABETH LINT:   And I don' t have an  
11                  answer for that.   I t' s just been thi s way.   I  
12                  don' t know that there was any --

13                  GERALD REARDON:   Goi ng back i n my  
14                  memory, I don' t thi nk anyone has ever asked  
15                  for a two a.m.   I thi nk i t was an oversight  
16                  when we went to the all alcohol to two  
17                  o' clock, there hadn' t been a beer and wi ne  
18                  l ooki ng for i t.

19                  ROBERT HAAS:   I' m just trying to  
20                  figure out what the rationale i s for even  
21                  maki ng that di fferenti ati on change to begi n

1 with. I mean it just doesn't seem --

2 MICHAEL GARDNER: Yes, so, I mean,  
3 you know, one possibility is that sort of  
4 beer or wine license is thought of as somehow  
5 more, I don't know, casual or not as rigorous  
6 as if you go all alcohol, then you know,  
7 you're talking about an establishment that  
8 may have different characteristics or  
9 expectations then with an all alcohol  
10 license. And the idea that, you know, kind  
11 of one o'clock was when we expected those  
12 operations to shut down, there may have been  
13 relatively few two a.m. licenses in the past.  
14 My sense of it is the Commission and the City  
15 have gotten more comfortable with the later  
16 hour over the passed number of years, and so  
17 there's both it didn't come up and it was  
18 that the kind of institutions, businesses  
19 that had a beer and wine in fact either would  
20 be closed or didn't need to be selling after  
21 one a.m.

1                   GERALD REARDON: I believe I was  
2 here for this vote for the two a.m.

3                   ELIZABETH LINT: I was not.

4                   GERALD REARDON: And I'm trying to  
5 remember the whole -- but I believe it was --  
6 it never came up because it was the full  
7 alcohol license. I don't think it was  
8 denied. I don't remember the conversation  
9 about it.

10                  MICHAEL GARDNER: Is this Tasty  
11 Burger?

12                  GERALD REARDON: No, no. This was  
13 years ago when we finally went from one a.m.  
14 to two a.m. It was quite a while ago I  
15 believe.

16                  ROBERT HAAS: Does it predate the  
17 time we issued no value, non-transferable  
18 licenses?

19                  GERALD REARDON: It may be.

20                  ELIZABETH LINT: Pre-1986.

21                  GERALD REARDON: Yes. My thoughts

1 on this is they are the non-transferable  
2 ones?

3 ELIZABETH LINT: Yes. The cap  
4 policy went into effect.

5 GERALD REARDON: No, the cap policy  
6 wasn't also the two a.m. one?

7 ELIZABETH LINT: No, it didn't.  
8 That cap policy preceded me by years.

9 ROBERT HAAS: Right.

10 GERALD REARDON: My thoughts on this  
11 is that the fact that we have a license  
12 category does not mean that anyone, just  
13 because we have a license available, doesn't  
14 mean cart blanche, people can get it. The  
15 case we went over, we did three different  
16 hearings, I think, because of -- not for  
17 alcohol, but rebid on the Tasty Burger and we  
18 did the vote predicated on the information,  
19 and I think it was an oversight. And I don't  
20 want people coming in asking for a two a.m.  
21 all alcohol license because they think it's

1 the only category they're being advised to  
2 get when they certainly don't need an all  
3 alcohol. I mean, certainly the City and the  
4 Council have changed in terms of marketing,  
5 and two a.m. seem to be a little more the  
6 norm now than some of the others, and it  
7 doesn't mean in terms of my personal vote I  
8 don't have a history on votes. I try to take  
9 everything on a case by case basis depending  
10 on where it is, neighborhood, type of  
11 settings, public hearing, and people. So I  
12 don't think this is going to cause an issue  
13 of a slew of people think they can go from  
14 one to two. But I do think it's a category  
15 we should have rather than have new people  
16 coming in simply asking for all alcohol when  
17 they don't need to only because we don't have  
18 a category open.

19 ROBERT HAAS: I don't think we have  
20 any situations, though, where somebody has an  
21 all alcohol license and then serving all

1 alcohol just so they can get that extra hour  
2 period that I'm aware of. I mean, I'm  
3 assuming anybody who has an all alcohol  
4 license is serving beyond beer and malt, and  
5 they're looking the beer and malt as a  
6 vehicle to get to two o'clock.

7 What's the price difference between  
8 what you're proposing and what a  
9 non-transferable, no value all alcohol  
10 license is, is it different or the same?

11 ELIZABETH LINT: All alcohol is much  
12 more expensive.

13 ROBERT HAAS: Much more expensive?

14 ELIZABETH LINT: Oh, yes.

15 An all alcohol and two a.m. would be  
16 in the, I think it's 6600. And a value  
17 license would be 3300 I think that's...

18 MICHAEL GARDNER: So, I was the vote  
19 against a two a.m. license for the applicant  
20 that I guess puts us in a situation today  
21 because I felt as -- well, what I understood

1 the general practice of the Commission to  
2 have been is to give new applicants a chance  
3 to prove themselves at one a.m. before we  
4 move directly to two. And as I recall, the  
5 fire chief said that he votes things on a  
6 case-by-case basis and he didn't recognize or  
7 value that policy. I am very troubled by a  
8 case-by-case approach in terms of giving both  
9 the Board and the general public and  
10 potential licensees any guidance over our  
11 actions, and I am concerned that essentially  
12 that licensee didn't want to start with one  
13 a.m. because it was, as I recall,  
14 inconvenient to their marketing plan. That  
15 having been said, however, if it's the view  
16 of the Commission that a two a.m. license is  
17 appropriate from one brand new vendor, it  
18 seems to me a very difficult for us to now to  
19 rationalize as to any subsequent applicants,  
20 particularly any we've got a reasonable track  
21 record in the city or at least in the area

1 where this license is to operate. So I think  
2 that -- and that was one of my principal  
3 concerns about voting two a.m. for a brand  
4 new applicant at the time. But if that's the  
5 case, I think, you know, if we are going to  
6 move to have a two a.m. classification, we  
7 need to do it with the understanding that any  
8 vendors who think that would fit within their  
9 business plan, will need to have I think  
10 clearer and justifiable reasons why they  
11 would not be denied. So I think that this is  
12 -- we'll regard this as an important change  
13 to our understanding of what operations in  
14 the city or at least in an area like Harvard  
15 Square will be going forward.

16 GERALD REARDON: I guess I'd like to  
17 say first people coming in asking for a one  
18 a.m. when they kind of know they're going to  
19 try to come back in for a two a.m., I don't  
20 think is really good for the public. I think  
21 it undermines some of our principles that

1 people come in with the one a.m. and maybe  
2 some people would not be conducive to it, and  
3 now they get in the door and they want to  
4 come back for another hearing and try to get  
5 a two a.m. I think we would be better off  
6 dealing with these people straight out if  
7 that's where they intend on wind up being so  
8 that the neighbors and the people adjacent to  
9 that are well aware and what the intentions  
10 are, not that they're necessarily going to  
11 get it.

12 The case-by-case basis issue is  
13 predicated it has to be in a certain area. I  
14 mean, there's a lot of factors that are  
15 conducive to doing this. Many of the places  
16 are not going to have a two a.m. beer and  
17 wine only license. I think you have to have  
18 the right setting, the right venue to make it  
19 worthwhile because most people (inaudible).  
20 I don't necessarily think it's going to be a  
21 huge license that people are going to be

1           seeking. I could be wrong. But again, it  
2           has to be -- all the factors have to  
3           contribute whether you find that it's  
4           favorable to issue a license with a number of  
5           factors before you make a decision.

6                     ROBERT HAAS: So I just want to make  
7           a couple of statements:

8                     One, you know, my view quite honestly  
9           is if you're bound by a one o'clock class  
10          access for beer and wine, in my view I would  
11          pole the licensees at that time. I don't  
12          think we can just supersede our rules. If  
13          these are accepted for the rules, I think the  
14          fact that we don't change this policy that  
15          we're going to -- I don't think our votes  
16          going to withstand clear oversight of the  
17          rules.

18                    Second, I agree with the Chair. I  
19          think if we're going to take a policy  
20          statement like this, I think we should have  
21          some clear guidelines, and the criteria we're

1 going to use when we make these kind of  
2 assessments in terms of moving forward, I  
3 think simply to not do that, the first rule  
4 is not fair to licensees not understanding  
5 what our expectations are. One of the things  
6 that we're starting to see quite often, which  
7 troubles me, is this notion that people are  
8 getting a license, a CV license, and then six  
9 months later or less they're coming back to  
10 get an alcohol license. I think to your  
11 point, it means getting their foot in the  
12 door and, you know, when we ask the question  
13 we're going to get a polite oh, we're not  
14 thinking about it six months later and  
15 somebody is sitting here saying I need an all  
16 alcohol license.

17 GERALD REARDON: Right. And what I  
18 don't want to do is set up the expectation  
19 that that's how you have to do it at the  
20 License Commission, go in and get this and  
21 then you go back for a second bite. I think

1 the neighbors, the people are looking for an  
2 establishment's ultimate goal is clearly  
3 because that may change their whole outlook  
4 on whether or not they want to accept it.

5 ROBERT HAAS: But I think prior to  
6 contemplating and making a rule change,  
7 although we don't really have an  
8 understanding why there is a differentiation,  
9 I think we need to be clear about what our  
10 criteria is going to be so it helps us how to  
11 inform our decisions on how we're going  
12 forward with these kinds of changes looking  
13 for a license for beer and wine.

14 ELIZABETH LINT: Well, I think,  
15 though, the bottom line in any license that  
16 you issue it's public need and public good.  
17 And that's always the standard. It's always  
18 the criteria.

19 ROBERT HAAS: Right.

20 ELIZABETH LINT: So it's whether or  
21 not there's a need for that type of license

1 in that area at that hour.

2 ROBERT HAAS: But I think the fire  
3 chief raises a point. I mean, having a place  
4 that's embedded inside of a residential  
5 neighborhood compared to a Harvard Square are  
6 two different places, which I think has to be  
7 part of our consideration. If in fact you're  
8 going to allow a beer and wine license that's  
9 going to be open until two o'clock in the  
10 morning. And it's clearly inside a  
11 residential neighborhood or surrounded by  
12 residential homes is a very different  
13 decision if we're in the middle of a  
14 commercial district where many of the  
15 establishments are staying up to two, three,  
16 four or clock in the morning, not necessarily  
17 serving alcohol, but are open for business  
18 but are attracting people in the area. So I  
19 think, you know, I think we've got to start  
20 to make some finer distinctions what does the  
21 criteria look at when we look at public good

1 and public need. Those are nice --

2 ELIZABETH LINT: But that's exactly  
3 it.

4 ROBERT HAAS: And that's the thing  
5 that's troubling, because I think to the  
6 Chair's point that we've become somewhat -- I  
7 don't think we're being consistent a lot of  
8 the times, you know, and especially when the  
9 Board may change its composition on things  
10 like that going forward. I think we need to  
11 make it very clear with the people making the  
12 application, this is what the Board means by  
13 public good and public need. And these are  
14 the criteria. We're going to take into  
15 consideration, which we've never really done  
16 before, you know, to some degree. I mean,  
17 we've had this conversation over and over  
18 again. I've been on this Board for five  
19 years, we've had this conversation, and the  
20 criteria continues to change. Again, what's  
21 public good, public need? So I think, you

1 know, this might be a time to be a lot more  
2 helpful about establishing what are the  
3 ingredients when we talk about public good  
4 and public need.

5 MICHAEL GARDNER: Well, it's my  
6 understanding of the -- if it was an informal  
7 policy in the past of not granting two a.m.'s  
8 to brand new applicants, at least the  
9 articulated rationale was to let an applicant  
10 prove themselves first with respect to how  
11 they were operating at a -- with an earlier  
12 closing time, and then only if in fact we  
13 were satisfied that they would if they were  
14 following the rules in operating in a  
15 responsible manner would we have considered  
16 the moving to two.

17 ELIZABETH LINT: I believe that's a  
18 written rule. I have to check on that, but I  
19 believe that's a written rule.

20 MICHAEL GARDNER: Okay. Which, you  
21 know, we didn't file in the case of the Tasty

1 Burger.

2 Well, I'm not sure, Ms. Lint, if you  
3 think there's any benefit in asking the staff  
4 to do some more drafting or thinking about  
5 criteria to flesh out public good and public  
6 need. I think I got it right.

7 ELIZABETH LINT: Public need, public  
8 good, that's what's in the statute.

9 MICHAEL GARDNER: Yes, I mean  
10 certainly both in -- all three of us have  
11 alluded to the fact that in the particular  
12 case in point here, we're talking about a  
13 heavily commercial area, certainly because  
14 Cambridge is so geographically small. We've  
15 got, you know, residences nearby as we  
16 certainly know from some of our discussions  
17 about businesses in Harvard Square within the  
18 last year, but I think it's -- to the  
19 Commissioner's point, a decision about  
20 something sort of solidly in the square  
21 compared to something surrounded by more

1 residential areas is certainly a criteria,  
2 criterion rather written or not, typically  
3 keep in mind.

4 Other than that, I'm not sure,  
5 Commissioner, you feel there's a need or a  
6 value to deferring action on this until there  
7 can be some more thinking or writing about  
8 how to exercise the discretion or are you  
9 prepared to go forward?

10 ROBERT HAAS: No, I think there's  
11 two points here. I think, one, if in fact  
12 it's a written rule, that we in fact allow  
13 new ventures coming into the city, that we  
14 require them to stay open only to one o'clock  
15 to see if they're capable of running a  
16 business. What is open, do we know?

17 ELIZABETH LINT: I don't know.

18 ROBERT HAAS: It's a while yet,  
19 right?

20 ELIZABETH LINT: I believe so.

21 ROBERT HAAS: So in any event, my

1 view is that we need to put them on notice  
2 first of all, that that is a written rule of  
3 the Commission.

4 ELIZABETH LINT: I'm going to check  
5 it.

6 GERALD REARDON: I don't believe  
7 it's a written rule.

8 ELIZABETH LINT: I think it's  
9 policy.

10 GERALD REARDON: It's Chairman's  
11 personal preference.

12 ROBERT HAAS: Well, in the meantime  
13 if we don't take action today, I don't think  
14 you can allow Tasty Burger going forward to  
15 stay open until two o'clock until we take  
16 official action.

17 ELIZABETH LINT: Oh, absolutely.  
18 And they have been so notified. My only  
19 concern was with writing something specific  
20 and then once again you get boxed into  
21 something and then certain things fall

1 outside of that box.

2 ROBERT HAAS: Right.

3 ELIZABETH LINT: You may have a  
4 neighborhood that would really like something  
5 like a later hour establishment, and from  
6 time to time that does happen when people  
7 come in and support where we might think that  
8 it's not an appropriate area and they think  
9 that it's terrific. So, if you have it  
10 written, then you're kind of stuck.

11 ROBERT HAAS: Yes.

12 ELIZABETH LINT: Or we get into that  
13 situation where we're making all those  
14 exceptions.

15 GERALD REARDON: That's what I was  
16 trying to say earlier. There's a number of  
17 criteria, where it's located, type of  
18 ownership, track record, community support,  
19 what type of venue they have going. Some  
20 places have pool tables and things and venues  
21 that people occupy as opposed to someone just

1 sitting at a bar. You know, all those things  
2 contribute to whether or not you believe  
3 that's going to be something that's valuable  
4 to issue. It's not necessarily a cart  
5 blanche because someone has the opportunity.

6 ROBERT HAAS: I get that. I mean, I  
7 think, you know, we're constantly being  
8 reminded to avoid exceptions to our rules. I  
9 mean every time we have an applicant coming  
10 in and somebody's done their research, you  
11 identify certain places where we set this  
12 rule, this is the policy, and we remain and  
13 they list a whole series of them and they  
14 basically deviate. And granted the policy  
15 decisions to some degree give you some  
16 flexibility, but two are inconsistent how we  
17 impose those policies. I think that gets us  
18 into quagmires and it's a little bit of a  
19 dilemma every time now somebody coming before  
20 us and saying all right, what's the  
21 difference between this establishment and

1           these four other ones that you basically  
2           ignored that policy decision about?

3                     ELIZABETH LINT:    Yes.

4                     MICHAEL GARDNER:  Pleasure of the  
5           Commi ssi on?

6                     ROBERT HAAS:  I'd like to take a  
7           stab at trying to put some cri teri a around  
8           publ ic good and publ ic need that thi s body  
9           can thi nk about wi th respect to -- I  
10          understand there are exceptions, making sure  
11          we bui ld those exceptions i nto i t.  And al so  
12          I'm sti ll -- I'd like to fi gure out when di d  
13          we make thi s deci si on between the one o' clock  
14          for beer and wi ne versus an al l al cohol?  I  
15          don' t know i f we have the abi li ty to do that.

16                    ELIZABETH LINT:  I don' t thi nk we  
17          have the abi li ty to -- I can di scuss i t wi th  
18          El len.  She may have a recol lecti on of her 25  
19          years here, wi th you.

20                    ROBERT HAAS:  Let' s try that.

21                    ELIZABETH LINT:  But I' m not sure

1           that -- I know I asked her and my memory's a  
2           little fuzzy.

3                       GERALD REARDON: I mean, over the  
4           years there's been very few people to come in  
5           to even look for a beer and wine. Again, it  
6           has to be a specific type venue. It's not  
7           something that the, that most conducive.  
8           Most of them need full alcohol for two a.m.  
9           because of the setting and the type of  
10          business they do. To the best of my  
11          knowledge, this is the first one that come  
12          up.

13                      ELIZABETH LINT: This is the first  
14          one I think.

15                      MICHAEL GARDNER: We get plenty of  
16          beer and wine applicants for particular kind  
17          of businesses, you know, it's often more  
18          casual pizza food.

19                      ELIZABETH LINT: Or a neighborhood  
20          type of -- yes.

21                      MICHAEL GARDNER: So as I understand

1           i t, Commi ssi oner, you wou ld l i ke us to defer  
2           any acti on on thi s to gi ve the staff and  
3           oursel ves the opportuni ty to sort of flesh  
4           out our thi nki ng more, i s that --

5                     ELI ZABETH LI NT:   That wou ld be me --

6                     ROBERT HAAS:   That wou ld be my  
7           moti on.

8                     MI CHAEL GARDNER:   Okay.   Well , i n  
9           terms of the l ateness of the hour, I 'll  
10          second the moti on.

11                    Any further di scussi on?

12                    GERALD REARDON:   Can we turn around  
13           and vote to approve i t wi th condi ti ons --  
14           wi th condi ti ons that wi ll be appl i ed?

15                    ROBERT HAAS:   I 'm not sure what  
16           you' re aski ng.

17                    GERALD REARDON:   Well , we can vote  
18           to approve the change to have a two a.m.  
19           category and we wi ll i ssue condi ti ons.

20                    ROBERT HAAS:   I sti ll want to get at  
21           the fundamen tal questi on i f El len recal ls i t,

1           that would be great. I want to understand  
2           what the rationale was.

3                   GERALD REARDON: I don't see what  
4           that rationale has to do with anything.

5                   ROBERT HAAS: It may or may not. I  
6           don't know yet until I know.

7                   GERALD REARDON: I'm pretty sure I  
8           was here for that vote, and I just don't  
9           think it's ever gone. This is the first one  
10          that I can recall that's even come up.

11                   ROBERT HAAS: And I would say, too,  
12          probably the first time it's come up because  
13          people weren't aware of the fact that they  
14          couldn't apply beyond one o'clock for beer  
15          and wine.

16                   ELIZABETH LINT: Maybe.

17                   ROBERT HAAS: Not because they have  
18          this burning desire to have a two o'clock  
19          license. I think they didn't understand what  
20          the regulations were. This is the first time  
21          as I said, it's come up. It got by us so....

1                   MI CHAEL GARDNER: Prior to taking a  
2                   vote, are there any members of the public who  
3                   would like to be heard on this matter?

4                   (No Response.)

5                   MI CHAEL GARDNER: Seeing none, any  
6                   other comments before we proceed to a vote?

7                   (No Response.)

8                   MI CHAEL GARDNER: All those in favor  
9                   of deferring action to give the staff and  
10                  Commission an opportunity for further  
11                  reflection and thinking about the criteria to  
12                  be applied in applying such a rule, all those  
13                  in favor signify by saying "Aye."

14                  ROBERT HAAS: Aye.

15                  MI CHAEL GARDNER: Aye.

16                  And those opposed?

17                  GERALD REARDON: No.

18                  MI CHAEL GARDNER: Motion carries two  
19                  to one.

20                  Just to give you the opportunity,  
21                  Chief, if you want to put into the record the

1 reasons for your -- what I take it is a  
2 belief we should just go forward today if you  
3 choose to.

4 GERALD REARDON: Well, I think I  
5 enumerated a number of times. I think it's  
6 an oversight. I was here for the original  
7 one. We haven't had anyone asking for this.  
8 And I don't wish to have establishments  
9 coming in trying to go for two a.m. license  
10 and asking for beer and wine. If they're  
11 asking for all alcohol and when in fact they  
12 only have beer and wine. I don't believe  
13 there are that many beer and wine  
14 establishments that will be looking for this  
15 type of venue. I think it would have to be  
16 specific as I said earlier, the type of venue  
17 that they're running whether they have  
18 entertainment at that time, type of business,  
19 the location, whether or not that area  
20 supports it, so I don't think this is a  
21 quantum leap. I think it was just an

1 oversight several years ago, and it hasn't  
2 had the need. We now have since voted on the  
3 applicant who has moved forward and that  
4 applicant probably is predicated on our  
5 vote, and I think it's an oversight that we  
6 should correct now and that we wish to add  
7 amendments to that as we go forward, I think  
8 we're still free to do so.

9 MICHAEL GARDNER: Thank you.

10 One other matter we might take up now  
11 is the issue of the November 6th hearing.

12 ELIZABETH LINT: One second. What  
13 do you want to put this on for the decision  
14 hearing in November?

15 MICHAEL GARDNER: I really don't  
16 think I -- well, I can't do it at ten o'clock  
17 that day. I could do it later on the 1st.

18 ROBERT HAAS: So what day is that?

19 MICHAEL GARDNER: November 1st is a  
20 Thursday is the date we've got for a decision  
21 hearing because we've got a License

1           Commi ssi on heari ng on the 23rd of October.  
2           So that' s the next Thursday that whether  
3           there was enough time for noti ces and  
4           consi derati on.

5                     Did I say that ri ght?

6                     ELI ZABETH LINT:   Yes, you di d.

7                     MI CHAEL GARDNER:   I mean, I don' t  
8           know, coul d we do November the 1st at 11: 30  
9           or noon?

10                    ROBERT HAAS:   Noon woul d be better  
11           for me.

12                    ELI ZABETH LINT:   My cal endar' s  
13           upstai rs.

14                    GERALD REARDON:   I woul d have be to  
15           be cl oser to one or 1: 30.

16                    MI CHAEL GARDNER:   Later i s okay wi th  
17           me.

18                    GERALD REARDON:   Two, okay.   I s that  
19           ri ght?

20                    ELI ZABETH LINT:   I' ll fi nd out when  
21           I go upstai rs.   I usual ly bri ng i t wi th me.

1                   MICHAEL GARDNER: We'll at least  
2 tentatively have the goal of having this  
3 matter considered at the November 1st hearing  
4 which will be scheduled for the afternoon if  
5 possible. And then if you're going to change  
6 it, you'll have to put the notice out anyway.

7                   ELIZABETH LINT: Yes.

8                   MICHAEL GARDNER: And then we have a  
9 problem with November the 6th?

10                  ELIZABETH LINT: Yes, it's Election  
11 Day.

12                  MICHAEL GARDNER: I -- so the  
13 options include a hearing on the 13th  
14 potentially, cancelling and then just going  
15 with the 20th. I've got a personnel  
16 department commitment on the 13th in Boston  
17 that will not end until six p.m. So I could  
18 start at seven on the 13th or, you know, I  
19 could do the 8th which is the Thursday.

20                  ROBERT HAAS: What's your agenda  
21 look like for the meeting afterwards? Is it

1 al ready booked?

2 ELI ZABETH LINT: October 23rd?

3 ROBERT HAAS: No, the one after  
4 El ecti on Day?

5 ELI ZABETH LINT: We haven' t -- we  
6 haven' t started on that yet.

7 ROBERT HAAS: No, I' m sayi ng what' s  
8 the meeti ng after the El ecti on Day meeti ng?

9 MI CHAEL GARDNER: The 20th.

10 ROBERT HAAS: You sai d okay.

11 ELI ZABETH LINT: No, sorry.

12 November.

13 ROBERT HAAS: And I thought you  
14 meant before the meeti ng. So what' s that  
15 look -- you haven' t started that one yet?

16 ELI ZABETH LINT: Ri ght.

17 ROBERT HAAS: You can control to  
18 what the agenda i s goi ng to look l i ke on the  
19 20th.

20 ELI ZABETH LINT: To a degree unl ess  
21 they' re l i cense appl i cants.

1                   ROBERT HAAS: So you haven't done  
2 anything for Election Day yet either as far  
3 as scheduling?

4                   ELIZABETH LINT: No.

5                   MICHAEL GARDNER: No.

6                   ELIZABETH LINT: We just did the  
7 23rd.

8                   ROBERT HAAS: Mr. Chairman, you're  
9 saying you're available on the 8th?

10                  MICHAEL GARDNER: The 8th or later  
11 on the 13th.

12                  GERALD REARDON: This is November?

13                  MICHAEL GARDNER: Yes.

14                  ELIZABETH LINT: Or we could just  
15 have one here if it's the Board's pleasure,  
16 on the 20th.

17                  MICHAEL GARDNER: One hearing in the  
18 month. To skip the first week of November  
19 and put everything on the 20th.

20                  GERALD REARDON: Is it a real heavy  
21 schedule or you don't know?

1 ELIZABETH LINT: We don't know yet.  
2 Potentially it could be.

3 MICHAEL GARDNER: If the Police  
4 Commissioner is available on the 8th, six  
5 p.m., I'm available then.

6 Chief?

7 GERALD REARDON: I've got a late  
8 meeting in the afternoon, but I probably  
9 could be here. I might be late.

10 MICHAEL GARDNER: So I'll make the  
11 motion that the hearing currently scheduled  
12 for six p.m. on November 6th be moved to six  
13 p.m. on November 8th.

14 ROBERT HAAS: Second.

15 MICHAEL GARDNER: Further  
16 discussion?

17 (No Response.)

18 MICHAEL GARDNER: All those in favor  
19 signify by saying "Aye."

20 Aye.

21 ROBERT HAAS: Aye.

1 GERALD REARDON: Aye.

2 MICHAEL GARDNER: None opposed. So  
3 we'll move that hearing and take care of the  
4 notices.

5 ELIZABETH LINT: Absolutely.

6 MICHAEL GARDNER: Is there any other  
7 business that we have to do now?

8 ELIZABETH LINT: I don't think so.

9 MICHAEL GARDNER: All right. So  
10 I'll make a motion to adjourn at about 12:10.

11 ROBERT HAAS: Second.

12 MICHAEL GARDNER: Motion having been  
13 made and seconded, non-debatable. All those  
14 in favor signify by saying "Aye:

15 ROBERT HAAS: Aye.

16 GERALD REARDON: Aye.

17 MICHAEL GARDNER: Aye.

18 So we'll close at ten after noon on the  
19 9th and reconvene at six p.m. tonight.

20 (Whereupon, at 12:10 p.m., the  
21 License Commission Adjourned.)

1 ERRATA SHEET AND SIGNATURE INSTRUCTIONS

2  
3 The original of the Errata Sheet has  
4 been delivered to License Commission.

5 When the Errata Sheet has been  
6 completed and signed, a copy thereof should  
7 be delivered to the License Commission and  
8 the ORIGINAL delivered to the License  
9 Commission, to whom the original transcript  
10 was delivered.

11  
12 INSTRUCTIONS

13 After reading this volume of the  
14 transcript, indicate any corrections or  
15 changes and the reasons therefor on the  
16 Errata Sheet supplied to you and sign it. DO  
17 NOT make marks or notations on the transcript  
18 volume itself.

19 REPLACE THIS PAGE OF THE TRANSCRIPT WITH THE  
20 COMPLETED AND SIGNED ERRATA SHEET WHEN  
21 RECEIVED.



## C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS  
BRISTOL, SS.

I, Catherine Lawson Zelinski, a  
Certified Shorthand Reporter, the undersigned  
Notary Public, certify that:

I am not related to any of the parties  
in this matter by blood or marriage and that  
I am in no way interested in the outcome of  
this matter.

I further certify that the testimony  
hereinbefore set forth is a true and accurate  
transcription of my stenographic notes to the  
best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 26th day of October 2012.

\_\_\_\_\_  
Catherine L. Zelinski  
Notary Public  
Certified Shorthand Reporter  
License No. 147703

My Commission Expires:  
April 23, 2015

THE FOREGOING CERTIFICATION OF THIS  
TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION  
OF THE SAME BY ANY MEANS UNLESS UNDER THE  
DIRECT CONTROL AND/OR DIRECTION OF THE  
CERTIFYING REPORTER.